University of Alberta

Let Me Tell You A Story: The Depiction of Sexual Assault Crimes in English Canadian Newspapers in 2002

by

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Canada

This thesis is dedicated to the memory of my mother, Emma Mae Sampert who passed away while I was in the middle of this project. Mom, it's finally done.

Abstract

More than twenty years after sexual assault legislation in Canada was reformed as an instrument to increase reporting rates, the number of women who tell police about their sexual victimization continues to drop. This dissertation examines one possible cause for the continued decline in reporting – the use of stereotypes and myths in the coverage of sexual assault crimes in English Canadian newspapers. Using critical discourse and content analysis, I examined the way rape cases were discussed in six English-Canadian newspapers over a one-year period in 2002 and determined that a number of deeply embedded stereotypes about sexual assault crimes remain salient. More importantly, for the first time, my analysis demonstrates that the state through its police agencies is a major purveyor of those myths. These myths include the stereotype that women provoke sexual violence through irresponsible behavior and that men are being falsely accused of rape.

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Chapter 1 – The Beginning of the Story

"While fear is an important factor in our decisions not to report,
the larger reason is that we're not stupid.
Why would anyone choose to subject themselves to such shitty behaviour?
Especially when the conviction rate for sexual assault is under 5 per cent."[1]

Like all good stories, the story about sexual assault in Canada has many different dimensions. It is a story that has been told by parliamentarians, feminists, jurists and lawyers. It has been written and rewritten by the police and by journalists. Sometimes, although infrequently, it has been told by the victim of sexual violence. This study examines the multitude of voices that write the story of rape by exploring select English Canadian newspaper stories about sexual violence.

From a legal perspective, parliamentarians enacted major changes to the rape crime provisions of the Criminal Code of Canada in 1983, with the implementation of Bill C-127. It was hoped that by changing the way the legal system deals with rape, the reporting rates for sexual violence would increase. The criminal law was changed, renaming the crime from "rape" to "sexual assault" and recognizing three levels, or degrees of severity, of sexual assault. The new law was less gender specific as it acknowledged that men along with women could be victimized. Penetration of the vagina by a penis was no longer the deciding factor in determining if a woman had been legally raped. Additionally, the corroboration requirement needed for the prosecution of rape was dropped and the issue of consent was legally codified. Also under the new law, woman's sexual history could no longer be brought up at trial. Finally, the requirement that the victim report the crime to police immediately after the crime was committed was dropped.[2] The reforms to the Criminal Code were aimed at increasing the reporting rates of sexual assault and bolstering the victim's confidence in the legal system, as well as increasing conviction rates and improving police efficiency in dealing with sexual assault. The move to change the Criminal Code was hard fought for by feminist groups throughout Canada and was viewed by some as a victory. However, the initial optimism about the impact the reforms would have on women's ability to seek justice may have been premature. Indeed, reporting rates remain depressingly low. Some studies estimate that 78% of sexual assault crimes are never reported to police.[3]

This analysis interrogates an as yet unexplored potential explanation for the low reporting rates: the prevalence and persistence of rape myths in newspaper reports on sexual assault. I posit that legislative changes cannot work if the underlying societal beliefs continue to support myths and stereotypes about sexual violence. Because news media reflect social reality, one fruitful approach to establishing the content and potency of these societal beliefs is by examining the media discourse about rape. The main research question this dissertation addresses is: do news stories about sexual assault reveal commonly identified "rape myths," including myths that tend to blame victims and

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[1] Jane Doe, *The Story of Jane Doe: A book about rape* (Toronto: Random House, 2003) at 90-91.

[2] Lorenne M.G. Clark, *Evidence of Recent Complaint and Reform of Canadian Sexual Assault Law: Still Searching for Epistemic Equality* (Ottawa: Canadian Advisory Council on the Status of Women, July 1993) at 1 - 5.

[3] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, no. 6) at 6.

discourage them from reporting the crimes? To answer this question, a content analysis combined with a critical discourse analysis of all stories about sexual assault in six select English Canadian newspapers was conducted over a one year period in 2002. This provides an understanding of how sexual assault crimes are depicted in English Canadian newspapers twenty years after discussions about reforming the sexual assault laws began.

Methods To Study The Story

I studied the story of sexual assault in three ways. First, I conducted a content and discourse analysis of the news stories. Second, I conducted interviews with the key players in the telling of the story – newspaper editors and reporters. Finally, I interviewed the police to determine how the state defines sexual violence issues. Methodological triangulation allows for both quantitative and qualitative research. Triangulation theory suggests the weaknesses inherent in relying on only "qualitative data on the one hand and statistical analysis of numerical data on the other"[4] can be overcome by utilizing a number of different approaches. Using solely a quantitative approach such as a content analysis or a qualitative analysis such as critical discourse analysis and interviews tells just one side of the story. Combining these methods provides for a much richer analysis and provides a broader understanding of the social issues under consideration. It is for this reason that I have taken a triangulation approach in my methodology for this research project. The use of quantitative and qualitative methods represents different perspectives in my understanding of the media articulation of sexual assault, and thus I employed them both to investigate "different aspects or levels of reality."[5] Relying on both quantitative and qualitative data gave me the opportunity to look at media coverage from many different angles. As well as utilizing methodological triangulation, I also utilized data triangulation, which employs multiple data sources (in this case, various newspapers) with a "similar foci to obtain diverse views" about the topic of sexual assault.[6] The outcome was a richer analysis and a stronger understanding of the relationship between newspaper coverage of rape and women's likelihood to report sexual violence.

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[4] Christian Erzberger and Gerald Prein, "Triangulation: Validity and empirically-based hypothesis construction," (1997) 31(2) Quality and Quantity 142 at 144.

Content analysis is defined as "objective and systematic counting and recording procedures to produce a quantitative description of the symbolic content in a text."[7] By contrast, critical discourse analysis (CDA) builds on the quantitative aspects of content analysis, but it goes further. Critical discourse analysis is a "multidisciplinary approach to the study of language use and communication in their socio-cultural contexts."[8] At its heart is an interest in understanding the role discourse plays in reproducing or challenging power relationships and privileges. More to the point, CDA focuses on the news structures that play a role in reproducing, maintaining or challenging hegemony. News narratives are not like other narratives in that they do not tell stories in a sequential or chronological manner. Instead, the details journalists consider to be the most important are given first. Additionally, news "leaves many things unsaid. These must either be inferred for full comprehension or are routinely presupposed as general or more particular taken-for-granted information."[9] In other words, news relies a great deal on the readers' presupposed information – on their stereotypical beliefs – to get information across in a quick and concise manner. CDA provides a detailed examination of "the ways dominant discourses (indirectly) influence such socially shared knowledge, attitudes and ideologies."[10] More specifically, CDA seeks to "know how specific discourse structures determine specific mental processes, or facilitate the formation of specific social representations."[11] Using CDA allows for a clearer understanding of the deeply embedded nature of the cultural scripts regarding sexual assault – scripts that are often employed with question or refutation to create a worldview that is inherently misogynistic.

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[5] Ibid.

[6] Ann Hilton, "Should qualitative and quantitative studies be triangulated?" On-line, International Society of Nurses, www.isncc.org/news/triangle.htm.

[7] W. Lawrence Neuman, *Social Research Methods: Qualitative and Quantitative Approaches* 4th Edition (Toronto: Allyn and Bacon, 2000) at 293.

[8] Teun van Dijk, *Racism and the Press.* (New York: Routledge, 1991) at 44.

Interviews were also integral to this analysis. I deliberately set up face-to-face interviews when possible with the newspaper reporters, editors and police rather than relying on surveys or telephone interviews. There were several reasons for this. First, people do not always complete and return their survey questionnaires on time, and conducting survey research can be quite time-consuming.[12] Secondly, because of my hearing difficulties, I am uncomfortable conducting interviews over the phone. Conducting interviews face-to-face was viewed as the best possible technique because it provided for a substantive response to the interview questions. I could probe the interviewees further for clarification on specific research questions. Perhaps more importantly, speaking face-to-face with individuals about their work provided me with an opportunity to create a rapport with those being interviewed. This is particularly important when understanding who was being interviewed. Because of the nature of their work, police officers and journalists tend to be suspicious of those with whom they have not built up a relationship of trust.[13] The face-to-face interview potentially alleviated some of those concerns. Finally, meeting face-to-face with the reporters in particular gave me the opportunity to see the working environment under which they select and filter information and frame their news stories.[14]

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[9] Ibid at 69.

[10] Teun van Dijk, "Principles of critical discourse analysis." (1993) 4 Discourse and Society. 249 at 259.

[11] Ibid.

Media Texts Chosen For The Analysis

This project analyzed the routine coverage of sexual assault stories in English Canadian newspapers in 2002, the twentieth anniversary of the changes to sexual assault legislation. Using the database Dow Jones Interactive, I accessed news stories from the *National Post*, *Globe and Mail*, *Winnipeg Free Press* and *Toronto Star*. For the *Victoria Times Colonist*, I used the Canadian NewsDisc database. Using the search term "sexual assault or rape" (and the active and past tenses of these words as verbs), I was able to access some of the news stories containing those words that were printed in 2002 and archived in these databases. Expanding the search term to "sex assault," "sex attacks" and "indecent assault" yielded more stories. For the *Halifax Chronicle Herald*, the gathering of data was slightly more difficult. Because this is one of Canada's few remaining independent newspapers, it is not included in the databases available. Accessing microfilm of each newspaper for 2002, I searched for stories that dealt with sexual assault

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[12] W. Lawrence Neuman, *Social Research Methods; Qualitative and Quantitative Approaches* 4th Edition (Needham Heights: Pearson, 2000) at 272.
[13] Interview of Nick Pron, Police Reporter, *Toronto Star* (05 November 2004), telephone interview.

or rape. It is important to note that all stories printed during 2002 – a total of 1532 stories -- were studied, representing a census of stories rather than a survey. This has never been done before in any study of sexual violence in Canada and the United States and it represents for the first time a comprehensive understanding of how sexual assault is depicted over time and in different locations.

In order for the stories to be included in the analysis, sexual assault or rape had to be the topic for the majority of the news story. I included sports and entertainment stories as well as international, national and local news. Book reviews and movie reviews were not included. Using the news stories from the archival research, I conducted a content analysis using the coding sheet.[15] A second coder was trained to perform an intercoder reliability test on 30% of my data, and he agreed with my coding on 82% of the cases, well within the range of acceptance.

I did not include television in the analysis for a number of reasons. First, there is some evidence that television reporters do not routinely cover court proceedings. Simply put, court stories do not make good TV stories. Television relies on visuals and short sound bits. Cameras and tape recorders are not allowed in courtrooms in Canada; thus, television cameras are forced to wait outside of the courthouse while the trial is held. The short sound bite is compromised by "complex legalisms and technical issues"

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[14] W. Lawrence Neuman, *Social Research Methods; Qualitative and Quantitative Approaches* 4th Edition (Needham Heights: Pearson, 2000) at 273.
[15] Please see the coding sheet provided in Appendix #1.

inherent in court decisions.[16] Assignment editors faced with limited resources and a finite time frame may only give passing notice to proceedings from the courtroom in favour of the story that provides good visuals. Secondly, looking at the newspaper coverage provided me with a good understanding of how the media think about sexual assault. Increasingly in Canada, due to convergence, the same media group owns newspapers and television stations. For instance, Bell Globe Enterprises owns both the *Globe and Mail*, a national newspaper and CT, a national television network. CanWest Global directly owns and operates three television stations and broadcasts over eleven television stations in eight provinces. It also owns the *National Post* and ten other daily newspapers in major Canadian cities, as well as a number of smaller weekly papers in rural areas of Canada.[17] Thus, it is not unusual to see the news stories covered in the daily newspaper cross-promoted on television.

Additionally, there is some evidence that television style of journalism has influenced newspapers. According to Meyrowitz, information provided in the print media mimics television:

> The traditionally more formal and abstract print media have turned toward issues of "personality." News magazines such as *People* explore the personal lives of public figures. Print journalists and scholars have adopted a more personal and subjective style. Newspapers now often describe events in a manner that simulates what one might have seen and heard on television. Quotes in print, for example, are now more likely to include "ums" and "ahs," and grammatical and other mistakes are more likely to be left intact. Indeed, descriptions of events in print are more likely to report on aural and visual phenomena that might have gone unnoticed to most people *at* the actual event, but were clearly perceptible

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[16] Elliot E. Slotnick and Jennifer A. Segal, *Television News and the Supreme Court* (Cambridge: Cambridge Press, 1998) at 233.

[17] Information regarding CanWest's massive media holdings is available on their company website: http://www.canwestglobal.com.

> to those who were watching television.... [T]he "event" is now defined in terms of how it appeared on television. [18]

Thus, understanding the newspaper coverage of sexual assault crimes, their perpetrators and their victims provides considerable insight into the way the news media overall construct these crimes.

Why Is This Story Important?

While there has been some work on the depiction of sexual assault crimes in the media in Canada, it has been limited.[19] Studies conducted in various Canadian cities have either confined their analysis to the coverage in one particular city or have not compared national news coverage to local news. For example, Chris McCormick's analysis relied on the coverage of sexual assault crimes in Halifax. Maria Løś and Sharon E. Chamard examined how sexual assault crimes were represented in the *Toronto Star* and the *Globe and Mail* before and after the 1983 reforms. In the United States, Helen Benedict's analysis looked only at the depiction of high profile crimes that had occurred in the 1980s. None of these included a content analysis or discourse analysis of the census of stories for one given year and none of them examined how several different types of newspapers cover the same event. Analyzing more than one paper and more than one *type* of paper is important because factors such as newspaper ownership, reader demographics, newsroom budgets, and newspaper circulation numbers may have an effect on the type of coverage granted to sexual assault crimes. A content analysis comparing the coverage of a big newspaper in Toronto to a smaller, independent paper in Halifax can reveal differences in coverage and show that newspapers are not monolithic in their approaches to covering sexual assault crimes. Moreover, comparing how local papers cover sexual assault crimes to the national coverage afforded in the *Globe and Mail* and *National Post* illustrates the difference between national and local coverage. It is expected that the national focus will be on higher profile sexual assault crimes, featuring either multi-victims or perpetrators or cases where either the victim or the perpetrator is known.

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[18] Joshua Meyrowitz, *No Sense of Place: The impact of electronic media on social behavior.* (New York: Oxford, 1985) at 178.

[19] See Chris McCormick's *Constructing Danger: the mis/representation of crime in the news* (1995) and Maria Løś and Sharon E. Chamard, "Selling newspapers or educating the public? Sexual violence in the media." (1997) Can. J. Crim.

Additionally, the studies that have been conducted were completed prior to the publication of the *National Post* and the rise of CanWest Global and Bell Canada Enterprises as major media empires that have arguably had a significant impact on news discourse in Canada. Understanding the political economy of the media in Canada and the impact that ownership has on the way the news is covered is also important. Taras has argued that with the convergence of media corporations and the growth of multi-media platforms, there are fewer reporters available to investigate the news and thus there is a silencing of alternative voices.[20] Moreover, the birth of the *National Post* has changed the face of journalism, by providing a more irreverent look at news.[21] Some media critics have argued that the *Post* is significantly less woman-friendly and than some of its female columnists have gone out of their way to critique feminist rhetoric.[22] Comparing the news coverage of the *Post* to the *Globe* utilizing both CDA and content analysis will determine whether that is indeed the case.

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[20] David Taras, *Power and Betrayal in the Canadian Media* (Peterborough: Broadview Press, 1999) at 80.
[21] Anthony Wilson-Smith "War of Word" *Maclean's* 08 February 1999 at 50.

None of the previous studies included interviews with reporters, editors *and* police, to determine their role in shaping the discussion about sexual violence. The interviews provide, for the first time ever in Canada, the substantive link between the police departments and the newsrooms that filter how the story of sexual assault and shape how it is told. This reveals further that news relies on institutional actors such as the police to help shape the agenda about sexual violence. For the most part, reporters rely on the police to provide them with the information about crime. How the police talk about sexual violence is integral to how the story is told and their role needs to be interrogated. My analysis does this by examining the relationships between police and media discourses about sexual assault.

This analysis provides a clear understanding of how English Canadian newspapers view sexual assault and how it is reported. As stated earlier, a "year-in-the-life" approach has not been used prior to this research, and by conducting a longer period of study, my findings are less influenced by the ebb and flow of news that sees major news events like elections, terrorist acts or natural disasters rearrange editorial priorities. For example, a 1998 analysis that determined the representation of women reporters in the by-lines of 16 of Canada's daily newspapers was conducted on the same day that a baseball record was broken, skewing the analysis considerably as there were a disproportionately higher number of sports stories (and thus male reporters) that ran that day.[23]

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[22] James Winter *Media Think* (Montreal: Black Rose Books, 2002) at 41 – 46.

[23] Media Watch "Women Strike Out – 1998 Newspaper Survey" n.d. www.mediawatch.ca.

Moreover, this analysis provides an understanding of the feminist critiques of the sexual assault reforms and the Supreme Court decisions and subsequent legislation that has shaped and reshaped the legal discourse surrounding sexual assault. It becomes clear that in the last twenty years the way society views sexual violence has changed. For some feminists, the decisions by the Supreme Court in response to appeals on sexual assault legislation have not been straightforward victories for women. Indeed, I argue that the Supreme Court decisions that have been made since 1983 have been both positive and negative for women. Understanding the legal discourse surrounding sexual violence allows for an understanding of how the story of rape is told legally.

Sexual violence is an important public policy issue. Over twenty years have gone by since feminists lobbied for government to implement legislation to reduce the sexist assumptions about sexual assault and improve both reporting and conviction rates. The media are the primary source of information about government, public policy and crime, and it is the media that determine the importance of this issue on the public policy agenda. As Taras points out, "it would be foolish to deny that the media play a role in shaping the public agenda."[24] While most people never set a foot in a courtroom or in the House of Commons, those images are broadcast to them during the evening newscasts or delivered in their morning newspapers. Studies have indicated that the more salience a media gives to an issue, the more attention it receives by policy makers. Conversely, the less salience, the less likely policy makers are to engage in activities related to the issue.[25]

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[24] David Taras, *The Newsmakers: the media's influence on Canadian Politics"* (Scarborough: Thompson Canada, 1990) at 33.
[25] Itzhak Yankovitzky, "Effects of News Coverage on Policy Attention and Actions; A Closer Look Into the Media-Policy Connection," (2002) 29:4 Communication Research. 422 at 427.

Thus, if media have an impact on policy outcomes, understanding the amount of media coverage given to sexual assault and the type of stories covered is important. My study provides both an overview how the media view rape and a deeper understanding of how the media view sexual assault as a public policy issue.

In Chapter 2, I begin the story with an examination of the myths and stereotypes that underpin our social construction of sexual assault crimes. I examine how these myths and stereotypes informed the Criminal Code enforcement of rape prior to the 1983 reforms. I analyze the legislative changes including the 1983 reforms to the Criminal Code that were implemented in a bid to improve the reporting and conviction rates for sexual violence, as well as the subsequent court challenges and changes to legislation.

In Chapter 3, I provide an overview of the political economy of media in Canada, with an understanding of Canada's newspaper environment in 2002. I then examine the ownership and circulation numbers for the six newspapers under study: the *National Post*, *Globe and Mail*, *Victoria Times Colonist*, *Halifax Chronicle Herald*, *Winnipeg Free Press* and *Toronto Star*. Next, I interrogate the journalistic paradigms under which the reporters work and look at the somewhat symbiotic relationship between the police and journalists. I provide an overview of the media discourse of crime, positing that while crime stories are relatively easy to report, sexual assault crimes are not. Finally, I examine the role of the media in setting the agenda of sexual assault as a public police issue and how the media frame sexual violence. This is important because it demonstrates the media's role in the social construction of crime.

Chapter 4 discusses how the story of sexual assault is told. It examines the location and the type of sexual assault stories included in the papers under study and determines that sexual assault stories are not likely to be front-page stories nor are they likely to be issues debated in the editorial or commentary pages. For the most part, the plurality of the sexual assault crimes across the country are in-brief stories that contain little comprehensive information about sexual violence. This chapter also determines that the bulk of the stories were framed from a law-and-order perspective. The sex of the reporter was studied, and in this analysis I determine that most of the stories written about sexual violence are written with no by-line. Again, this underscores the point that sexual assault crimes are not viewed as important, but are relegated to in-brief pieces that appear without a by-line. I also examine where the sexual assault story took place in the stories covered in 2002 and determine that the majority of the stories are about sexual assault that occurred in Canada. Next, I analyze whether the sexual assault story dealt with a historical or recent complaint of sexual violence. Finally, the status of the sexual assault is also documented to understand which phase was given coverage in the papers. Stories that covered the court processing of sexual assault crimes dominated in both the national and the local papers.

I then move on to examine how the sexual assault victim and the perpetrator were depicted in Chapter 5. I discover that the female perpetrator and the male victim is over-represented in coverage in both the local and the national papers. This further supports my assertion that the newspapers cover sexual assault in such a way to create a distorted model of news. A contextual understanding of the correlation between race and sexual victimization is missing in the newspapers' coverage of sexual violence in 2002. None of the newspapers talk about the racialized aspects of sexual violence, as I point out in Chapter 6 with my overview of the depiction of the race of both the victim and the perpetrator. This study determines that stranger attacks in newspaper coverage of sexual assault stories reflect the statistical reality, implying that at least in this respect, a more realistic picture of rape is emerging in the daily papers. Finally, I discover who gets to tell the story of sexual assault, by examining the use of sources in the English Canadian newspapers. It becomes clear that the story is told from the perspective of the police and it is heard in a male voice. Police are the number one source for news about sexual violence and the sex of the source quoted is most often male.

Chapter 6 then moves into the use of stereotypes and myths. I determine that myths and stereotypes remain dominant in the depiction of sexual assault crimes in Canada. The most common sexual assault myth is the myth that conflates sexual violence with sex. A second common rape myth is the one that suggests that innocent men are being accused of rape. This ties in nicely with the stereotype that women lie about sexual assault. Another sexual assault myth suggests that the perpetrator is the "other" – a man who is a visible or religious minority. The myth that good men do not rape women is another dominant stereotype that I found in the newspapers under study. This myth suggests that men with a solid reputation or a wife are incapable of raping women. On the flip side of this is the myth that the victim is a bad person or has a bad reputation. This myth was told with some frequency in the newspapers in 2002, particularly in high-profile cases where the perpetrator being charged was famous. Finally, the myth that victim provoked the rape was also quite noticeable in the newspapers, and this stereotype was a result of the warnings used by police when a rapist was operating in their neighbourhoods. As Finn suggests, the use of warnings are designed to keep women in their place.[26]

Let me tell you the story of rape as it was told in 2002 in six English Canadian newspapers and let me tell you about the voices that contributed to this story. Let me show you how rape is shaped first by the law and then by the institutional factors of news, and how it is shaped and filtered further by the editors and the reporters, the police and the courtroom actors.

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[26] Geraldine Finn, "Taking Gender in Account in the 'Theatre of Terror': Maintenance of Male Dominance," (1989-1990) CJWL. 375 at 387.

Chapter 2 – The Story of Rape: Myths, Legal Reforms and Legal Discourses

"So you ask, I ask, we all ask, 'What exactly is the nature of rape?' Good question, and it needs a good answer, one that doesn't get stolen or appropriated, one we won't abandon or run from because it becomes dangerous or locks us into a singular interpretation. An answer that includes a multiplicity of women's experience. A definition that probably can't fit into the law. Because rape is too many things."[1]

While the central argument of this story is that the media depiction of sexual assault is inherently sexist and rife with stereotypes regarding women, to some degree the media are merely reflecting what they hear from police, defence lawyers and Crown prosecutors. As well, the individual reporters may be reiterating stereotypes and myths that they themselves accept as fact. Indeed, as van Dijk points out, the "reproductive and symbolic role of the Press is not isolated, but linked in many ways to political economic or other power institutions or the elites in general."[2]

Media coverage of any crime is influenced by legal discourse. The media provide coverage of sexual assault crimes by relying first on the police and later the courtroom actors. However, as many feminist critics have asserted, these sources provide the media and through them the public a limited opportunity to hear the victim's voice regarding sexual assault crimes. Instead, the woman's voice is silenced and replaced by that of the police officer, lawyer or judge.[3] Indeed, some feminists see the voices of women being constrained by legal discourse and ignored in the media. The legal changes fought for by feminists sought to break the silence surrounding rape.[4]

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[1] Jane Doe, *The Story of Jane Doe: A book about rape* (Toronto: Random House, 2003) at 114.
[2] Teun van Dijk *Racism and the Press* (London: Routledge Press, 1991) at 254.

Feminists view the court process and legal discourse as extensions of the nuanced patriarchal state. Like any other crime, sexual assault is "socially constructed."[5] Social constructionism, unlike logical empiricism, suggests that people create their reality based on their own knowledge and the knowledge they gain from their interactions with other people within society.[6] As Maria Łoś points out, sexual assault can be defined differently depending on "time, space, and diverse cultures, and is being constructed in daily multiple interpretations, by the victims, police, lawyers, juries, judges, the mass media, and many other actors and agencies."[7] Sexual assault crimes are adjudicated in what has been considered a predominantly male domain and the legal construction of sexual assault

> has been shaped by ideological and cultural perceptions and assumptions that are shared by men rather than by both men and women. It is therefore, the interests of men rather than women that are likely to be addressed by the resultant legal definitions. These interests can be conceptualized in terms of strategies that maintain a group's status.[8]

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[3] Steven M. Chermak, "Police, Courts and Corrections in the Media" in Frankie Y. Bailey and Donna C. Hale Eds. *Popular Culture, Crime and Justice* (Belmont: Westwadsworth Publishing, 1998) at 94-95.

[4] Kristin Bumiller, "Rape as a Legal Symbol: An Essay on Sexual Violence and Racism" (1987) 42 U. Miami L. Rev. 75 at 76.

[5] Maria Łoś, "The Struggle to Redefine Rape in the Early 1980s" in Julian V. Roberts and Renate M. Mohr. eds. *Confronting Sexual Assault: A Decade of Legal and Social Change.* (Toronto: University of Toronto Press, 1994) at 20.

[6] Ray Surrette, *Media, Crime and Criminal Justice: Images and Realties* 2nd ed. (Belmont: Westwadsworth Publishing, 1998) at 5.

[7] Maria Łoś, "The Struggle to Redefine Rape in the Early 1980s" in Julian V. Roberts and Renate M. Mohr. eds. *Confronting Sexual Assault: A Decade of Legal and Social Change.* (Toronto: University of Toronto Press, 1994) at 20.

[8] Ibid.

Thus, law is shaped to some degree by the male elite and privileges the perspective of that dominant group.

Moreover, law is wrapped up in terms that denote impartiality and objectivity, with its main goal the discernment of truth. As Carol Smart points out, if we accept that law with its truth claims "is indivisible from the exercise of power, we can see that law exercises power not simply in its material effects (judgements) but also in its ability to disqualify other knowledges and experiences."[9] Women's experiences of sexual assault and coercion must be reinterpreted to fit within the legal frame. Experiences and understandings falling outside this frame are deemed tangential or even irrelevant to the legal practises.

Further, when law privileges a rather narrow definition of truth claims, it creates artificial binaries. Indeed, the practise of law is premised on an artificial binary of guilt versus innocence. Either the defence wins or the Crown does. There is no greyness to the outcome in legal trials, while there may be a great deal of greyness in the accounts heard within the trial. When a person is found not guilty, it does not necessarily mean that s/he was innocent; it merely means that there was not enough evidence to convict the individual with proof beyond a reasonable doubt. The defence lawyers, however, still count that as a win and the Crown will view it as a loss. Smart suggests that the link of binary system of logic to legal claims of truth is "inappropriate to the 'ambiguity' of rape."[10] In this binary system, we think in terms of opposition – guilt/innocence, truth/lie, rational/emotional, male/female – with one of the binaries being more legitimate than the other. Feminists have argued that in the binary system, the privileged signifier is associated with masculinity while the less legitimate binary is associated with women. Legal discourse about rape, therefore, has the potential to shape both cultural scripts regarding sexual assault and the policy success of changes to rape laws.

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[9] Carol Smart, *Feminism and the Power of Law*. (London: Routledge, 1989) at 11.
[10] Ibid at 33.

This chapter begins with an examination of the myths and stereotypes that influence our understanding of sexual assault. From there, I show how rape myths were deeply embedded in pre-1983 criminal sanctions and served to caution women from using the legal system when they were victimized. Women's groups lobbied parliamentarians in the late 1970s and early 1980s to implement changes to sexual assault legislation with the hope that these legislative changes would improve the reporting and conviction rates of sexual assault. The third section of this chapter describes the legal reforms made in response to such criticisms, outlining the ways in which changes to the law were aimed at challenging the most damaging of the rape myths. Unfortunately, as the fourth part of this chapter shows, statistics suggest that the new law has not had the desired outcomes on the incidence of reporting and conviction rates. The final section of the chapter considers legal discourses as a possible explanation for the failure of the legislative changes to improve reporting and conviction rates for sexual assault. Changes to Canada's sexual assault laws occurred at the same time that the *Charter of Rights and Freedoms* became the rulebook by which legislation was measured. From the very beginning, the changes to the Criminal Code governing sexual assault have been tested by *Charter* concerns. Sometimes the Supreme Court decisions have been favourable toward women, but many feminists would argue that far too often rights of the (predominantly male) accused have been privileged over the rights of the (predominantly female) victim. As well, victims of sexual assault remain reluctant to report the crimes because of cultural scripts that legal changes have been unable to rewrite. These are not mutually exclusive and in fact, the legal discourses created by court decisions on sexual assault may reinforce and be reinforced *by* existing cultural scripts.

The Myths About Sexual Assault

A myth can be defined as "a narrative which is considered socially important, and is told in such a way as to allow the entire social collective to share a sense of this importance."[11] What are some of the myths about sexual assault? In her 1992 book on media depictions of rape crime, Helen Benedict outlines some of the basic myths that dominate our understanding about sexual assault. The first is the myth that rape is sex. This myth is central to any understanding about sexual assault because it constructs the social narrative that the assaultive aspect of sexual violence is secondary. Instead, it focuses on its sexual aspects. Moreover, this myth implies that the victim is unharmed by the crime. Benedict suggests that viewing rape as "sexual rather than an aggressive act encourages people not to take it seriously as a crime."[12] It is deemed as unimportant, little more than unrepressed sexual urges and impulses rather than sexual aggression.[13]

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[11] Eric Csapo, *Theories of Mythology*. (Malden: Blackwell, 2005) at 9.

[12] Helen Benedict, *Virgin or Vamp: How the Press Covers Sex Crimes*. (New York: Oxford, 1992) at 14.

[13] See Catherine Loh, Christine A. Gidycz, Tracy R. Lobo and Rohini Luthra "A prospective analysis of sexual assault perpetration: risk factors related to perpetration" 20:10 (October 2005) Journal of Interpersonal Violence. 1325 – 1348 for a full discussion on factors that explain men's likelihood to rape.

In keeping with this, the second myth documented by Benedict is that sexual assault is driven by lust. In this myth, the perpetrator is typified as a hot-blooded man, frustrated by his lack of a sexual outlet[14] and is exacerbated by the cultural script that women are expected to always make themselves sexually available to men.[15] This myth is both potent and damaging to women, and it further normalizes sexual violence, as men are then viewed as acting out their natural lustful fantasies with women who should have complied. As Pateman argues, the sexual contract provides women with protection from men by men and men in exchange are given complete and total access to women's bodies.[16]

Another myth suggests that the assailant is crazy or perverted. Benedict argues that the image of the assailant as crazy contradicts the myth of the assailant as a normal hot-blooded male, but it is used "for times when the sex crime is extremely grotesque or when the victim cannot easily be pegged as having provoked it."[17] As the statistics point out, most sexual victims know their attackers and thus the perpetrators are "not seedy loners lurking in alleyways."[18]

A fourth myth suggests that the assailant is more likely to be black or lower class. Benedict conducted her analysis in the United States with its racist stereotypes regarding the sexual behaviour of African-Americans. In Canada, because there are fewer African-

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[14] Helen Benedict, *Virgin or Vamp: How the Press Covers Sex Crimes.* (New York: Oxford, 1992) at 14.
[15] For a full discussion on women's sexual slavery, please see Carole Pateman's *The Sexual Contract* (Stanford: Stanford University Press, 1988).
[16] Carole Pateman, *The Sexual Contract.* (Stanford: Stanford University Press, 1988) at 119.
[17] Helen Benedict, *Virgin or Vamp: How the Press Covers Sex Crimes.* (New York: Oxford, 1992) at 15.
[18] Ibid.

Canadians in the population, the myth of sexual violence perpetuated by men of another race may be extended to include aboriginal or immigrant men. The media who tend "to give these stories more play than other kinds of rape" reinforce this racist stereotype.[19]

The remaining six myths are interrelated and address specifically the behaviour of the female victim. The first is that women provoke rape. This ties in quite nicely to the "rape is sex" myth and is so deeply entrenched in our cultural scripts about sexual assault that both the perpetrator and the victim believe it, despite widespread evidence that "rape is a crime of opportunity: the victim is chosen not because of her looks or behaviour, but because she is there."[20] The next myth is that women deserve rape. In this myth, women are seen as behaving "carelessly prior to the crime" and, thus, it is the woman's fault for "enticing" her perpetrator.[21] Another myth suggests that only loose women can be raped, again implying that, through their behaviour, women provoke rape. This myth completely belies the fact that "babies, children and elderly women are raped."[22] Another rape myth suggests that once raped, an otherwise pure woman has been sullied.[23] This implies that those women who do not push the boundaries of social behaviour can be viewed as the ideal victims, thus worthy of protection. Once a rape has occurred she is no longer seen as worthy of protection by the family unit. Indeed, in certain societies, the cultural script calls for the sanctioning of women who bring dishonour on their family. These scripts "establish norms where female chastity, purity and modesty are valued."[24]

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[19] Ibid.
[20] Ibid at 16.
[21] Ibid.
[22] Ibid.
[23] Ibid at 17.

Another myth is the idea that rape is seen as a kind of karmic justice – a punishment for mistakes made in a past life. This one is not limited to just sexual assault crimes, but it continues the blaming of the victim for culpability in the crime. As Benedict points out, "if we believe that victims bring on their misfortunes because of past bad behaviour, then we can convince ourselves that we are immune by virtue of having been 'good'."[25] The final myth documented by Benedict is the idea that women "cry rape" for revenge. In this myth, one that has been popular for thousands of years, women are depicted as lying about sexual assault to get back at a man or to "simply get attention."[26]

These myths constitute a skewed narrative about sexual assault, one that was reflected in the rape law in Canada prior to the implementation of major reforms in 1983. Rape was viewed as sex, thus only penetration of the vagina by a penis could be legally considered as a crime. Legally, married women could not be raped by their husbands, and women who operated outside of the norms of society were not granted the protection of that society. When a woman was raped, she was viewed as impure and sullied, and her decision to tell police about her experience was viewed with suspicion with her version of events highly scrutinized. The next section of this chapter will explore the reform to the Criminal Code regarding sexual assault laws.

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[24] Joseph Vandello and Dov Cohen. "Male honour and female fidelity: Implicit cultural scripts that perpetuate domestic violence." (2003) 84:5 Journal of Personality and Social Psychology. 997at 997-998.
[25] Helen Benedict, *Virgin or Vamp: How the Press Covers Sex Crimes.* (New York: Oxford, 1992) at 17.
[26] Ibid.

Canadian Sexual Assault Law Reform

In August of 1983, Canada's Justice Minister Jean Chrétien introduced Bill C-127 in the House of Commons. The bill amended Canada's Criminal Code and set out to reform the definition of sexual offences as well as the treatment of sexual assault cases by the criminal justice system. Prior to the 1983 amendments, rape laws "ensured a concentration on the need to protect men from false accusations and narrowed the scope of protection to certain women who had not infringed judicial and societal norms about what was appropriate behaviour and life-style."[27] Feminist legal critics argued that the common law interpretation of rape legislation placed rape into a special class in terms of the rules of evidence. The changes instituted in January of 1983 were aimed at eradicating these evidentiary requirements that "permitted (and in some cases virtually required) the admission in trials for sexual offences of evidence that was not admissible in trials for any other crimes."[28]

The first evidentiary rule was the corroboration requirement. Since most rapes occur in private situations, it was incredibly difficult for women to provide some form of corroborated evidence of the crime. As a result, it was difficult to pursue a conviction in these cases. This requirement bound judges to "warn the jury that it was unsafe to convict the accused on the uncorroborated evidence of the victim."[29] This made it clear that the victim's testimony under oath was not believable and it supported the myth that women lied about rape.[30] What is particularly interesting about the corroboration requirement is that it was required for sexual offences that involved women; however, it was not required in cases of indecent assaults against a male, unless the male was a child.[31] This suggested that women and children fabricate stories about sexual violence and thus can not be believed.

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[27] Christine Boyle, *Sexual Assault* (Toronto: Carswell Company, 1984) at 14.
[28] Lorenne M.G. Clark, *Evidence of Recent Complaint and Reform of Canadian Sexual Assault Law: Still Searching for Epistemic Equality* (Ottawa: Canadian Advisory Council on the Status of Women, July 1993) at 1.
[29] Ibid at 4.

Another evidentiary rule was the "interspousal exception."[32] Until 1983 in Canada, "husbands were legally permitted to rape their wives."[33] The interspousal exception had its roots in 17th century British common law which suggested that a wife was her husband's "to have whenever he wanted."[34] In other words, up until 1983 women were still viewed as property in this country, further suggesting that married women must always make themselves sexually available to their husbands. It continued to conflate rape with sex and it supports the myth that men rape women as a natural outlet for their sexuality. Since married women were expected to remain sexual available for men, it was the woman's fault that she was raped. Instead, she should have granted her husband his rightful access.

Also unique to rape laws in Canada was the evidentiary rule dealing with the issue of consent. Until 1983 compliance was viewed as consent, even if the compliance occurred as a result of a threat or fear of bodily harm. This meant that "because the law failed to distinguish consent from submission, a victim's testimony as to the nature of the threat or her fear of bodily harm had to be supported by outside evidence establishing that she had reasonable grounds for fear."[35] If there was no obvious evidence of her fear, then the defence could argue her submission was the same as consent.[36] This illustrates again the privileging of the male's perspective in the artificial binary system of law. Her lack of refusal was viewed as consent. This evidentiary guideline effectively worked as another corroboration requirement that had to be met by the victim.

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[30] Ibid.

[31] Christine Boyle, *Sexual Assault* (Toronto: Carswell Company, 1984) at157.

[32] Lorenne M.G. Clark, *Evidence of Recent Complaint and Reform of Canadian Sexual Assault Law: Still Searching for Epistemic Equality* (Ottawa: Canadian Advisory Council on the Status of Women, July 1993) at 5.

[33] Ibid.

[34] Helen Benedict, *Virgin or Vamp: how the press covers sex crimes.* (Oxford: Oxford University Press, 1992) at 43.

A fourth evidentiary rule was the mistaken belief in consent. Common law application of the old Criminal Code provisions "established that a defendant's honest or sincere, even if mistaken, belief that the complainant had consented constituted a full defence to a charge of rape."[37] Thus, if the woman did not scream, run away or fight, the defence could argue that the defendant was operating under the honest and sincere belief that she victim was consenting to a sexual act. Smart suggests that this underlines the phallocentrism of the sexual assault laws prior to 1983. According to Smart, the law sees sexual assault through a phallocentric lens by ignoring what women experience in sexual assault and giving dominance to men's experience. The sexual assault falls into an artificial binary that gives primacy to his version of the events and ignores her perspective. This evidentiary law that assumed women say no when they actually meant yes allowed men to "rape with impunity."[38]

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[35] Lorenne M.G. Clark, *Evidence of Recent Complaint and Reform of Canadian Sexual Assault Law: Still Searching for Epistemic Equality* (Ottawa: Canadian Advisory Council on the Status of Women, July 1993) at 5.
[36] Ibid.
[37] Ibid at 6.
[38] Ibid at 7.

Prior to 1983, the victim's sexual history and her reputation were also used as fodder for the defence counsel and served as the fifth unique evidentiary rule. Rape law framed unchaste women as untruthful; thus, "a complainant could be cross-examined as to her sexual conduct in the past in order to attack her credibility."[39] This evidentiary rule, combined with the need for corroboration, meant that women were afraid to come forward regarding their sexual assault for fear that their character and reputation would be attacked on the witness stand.[40] Based on this evidentiary requirement, a case that featured a victim with a sexual history was likely to result in an acquittal "because the real question in the mind of the jury was not whether the accused had raped the complainant but whether they should put him in jail for what he had done."[41] Again, this relied on the myth that women lied about sexual violence and it implied that "loose" women will invariably lie about sexual violence.

The sixth evidentiary requirement prior to 1983 contained a very narrow definition of what constituted rape and it buttressed the myth that rape is inherently sexual. According to this rule, only women could be raped. Men could not. Moreover, rape constituted penetration of the vagina by a penis. If other objects were used, it was not considered rape.[42] Subsequent crimes were eventually created to fill the gap created by this narrow definition, including indecent assault on a female and indecent assault on a male.[43] However, in terms of sentencing, the indecent assault on a man carried a higher sentence than the indecent assault on a woman. Boyle suggests that the difference in sentencing provisions may in part have reflected "a straightforward view that it was not such a serious matter to attack a woman as a man."[44] Thus rape of a woman was not viewed as assaultive; instead, it was "only" sexual.

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[39] Christine Boyle, *Sexual Assault* (Toronto: Carswell Company, 1984) at15.
[40] Lorenne M.G. Clark, *Evidence of Recent Complaint and Reform of Canadian Sexual Assault Law: Still Searching for Epistemic Equality* (Ottawa: Canadian Advisory Council on the Status of Women, July 1993) at 8.
[41] Ibid.
[42] Ibid at 11.
[43] Christine Boyle, *Sexual Assault* (Toronto: Carswell Company, 1984) at 16.

Finally, there was an evidentiary requirement of recent complaint that required the victim to report the crime to police or other authorities promptly. Any delay in reporting was seen as having an effect on the victim's credibility and the outcome of the court cases.[45] According to Boyle, "evidence of immediate complaint was required to rebut the strong presumption of fabrication."[46] Boyle contends that this restriction was applied more readily to female complainants than male complainants and it was backed by higher sentencing provisions for sexual crimes against men. Thus, men were seen as more credible and their claims to victimization more worthy of consideration than women's.[47]

As Boyle points out, the special evidentiary rules that were in place prior to 1983 were "expressly designed to provide the accused with special protection from false accusation."[48] These rules operated on the assumption that women lie about rape. The aim of the reforms introduced in 1983 was to take the focus off the victim's credibility and concentrate instead on the accused's guilt or innocence.[49]

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[44] Ibid at 17.

[45] Lorenne M.G. Clark, *Evidence of Recent Complaint and Reform of Canadian Sexual Assault Law: Still Searching for Epistemic Equality* (Ottawa: Canadian Advisory Council on the Status of Women, July 1993) at 1.

[46] Christine Boyle, *Sexual Assault* (Toronto: Carswell Company, 1984) at14.

[47] Fletcher Dawson in Lorenne M.G. Clark, *Evidence of Recent Complaint and Reform of Canadian Sexual Assault Law: Still Searching for Epistemic Equality* (Ottawa: Canadian Advisory Council on the Status of Women, July 1993) at 11.

[48] Christine Boyle, *Sexual Assault* (Toronto: Carswell Company, 1984) at16.

With pressure from feminist groups, Bill C-127 came into effect in January of 1983, and it created a three-tiered definition of sexual assault crime. The first level covered "everything from touching to forced sexual intercourse with a minimum of violence."[50] The next level concerned sexual assaults that involved weapons, threats, or bodily harm. The last level was aggravated sexual assault and incorporated crimes where the victim was injured.[51] The new bill reflected major changes in the way sexual assault was defined by legislators.

First, Bill C-127 degendered sexual assault crimes in Canada; in other words, legislators recognized that men along with women can be victims of sexual crimes, effectively expanding the definition of sexual assault. The degendering of the law was in keeping with the equality rights entrenched in the new *Charter of Rights and Freedoms*.[52] Making sexual assault law gender neutral does have its advantages. Including men as victims "challenges myths of masculinity, such as myths that men are invulnerable, always in control and always ready to have sex."[53] It also refocuses the legal process away from the sex act itself and opens up the idea that sexual assault is about violence.

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[49] Lorenne M.G. Clark, *Evidence of Recent Complaint and Reform of Canadian Sexual Assault Law: Still Searching for Epistemic Equality* (Ottawa: Canadian Advisory Council on the Status of Women, July 1993) at 21.

[50] *House of Commons Debates,* XVII at 20039 (Hon. Jean Chrétien).

[51] *House of Commons Debates,* XVII at 20039 (Hon. Jean Chrétien).

[52] *House of Commons Debates,* XVII at 20039 (Hon. Jean Chrétien).

[53] Charlene Muehlenhard, et. al., "Definitions of rape: Scientific and Political Implications" (1992) 48:1. Journal of Social Issues. 37 at 37.

However, some critics suggest the gender neutral revisions did not go far enough in addressing women's concerns about sexual assault. Some saw the "de-gendering" of the offence as a way of silencing women's voices. It was an example of how women's experience of the world "as gender stratified" is discounted and replaced by a "gender neutral world." [54] The neutrality of the language was seen as potentially changing the "meaning of rape for women."[55] A gender neutral approach combined with the framing of rape as a crime of violence in effect disguises the

> omnipresent reality of fear of rape among women (almost non-existent among heterosexual men) and put into question the validity of rape victims' subjective sense of their femininity and sexual identity. Moreover, through the artificial, legal construct of gender-neutrality, the actual economic and social content of heterosexual relations and the related victimization of women have been effectively obscured.[56]

One could argue that by obfuscating the gender specificity of rape, the new law further silences women's perspective regarding violence and once again privileges the male's telling of the story of rape.

However, other feminists saw the 1983 reforms as positive. Because corroboration was no longer an evidentiary requirement for prosecution, judges could no longer tell the jury to acquit the accused in the absence of corroboration. In essence, this reform established "the principle that women are inherently credible when testifying about a sexual offence. What they say under oath … is neither more nor less believable than the testimony of the accused."[57] In other words, the telling of the rape story, despite its gender neutral language, no longer gave primacy to the male experience. Instead, the woman's voice was deemed credible. As well, the evidentiary rule that gave men legal permission to rape their wives was also removed with the reforms. Bill C-127 recognizes that "men can and do, rape their wives and should not be immune from prosecution when they do."[58] The new law took the issue of marital rape out of the private realm and placed it squarely into the public arena, giving women more power in their sexual relationship with their husbands.[59]

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[54] Maria Łoś, "The Struggle to Redefine Rape in the Early 1980s" in Julian V. Roberts and Renate M. Mohr. eds. *Confronting Sexual Assault: A Decade of Legal and Social Change.* (Toronto: University of Toronto Press, 1994) 20 at 34.

[55] Elizabeth Sheeny, "Legal Responses to Violence Against Women in Canada. " 19:1 and 2 Canadian Women Studies. 62 at 66.

[56] Maria Łoś, "The Struggle to Redefine Rape in the Early 1980s" in Julian V. Roberts and Renate M. Mohr. eds. *Confronting Sexual Assault: A Decade of Legal and Social Change.* (Toronto: University of Toronto Press, 1994) at 35.

As well, Bill C-127 clarified that consent obtained by fear of force would not be considered consent. The amendments specified that

> consent does not exist if the complainant submits, or does not resist, as a result of the application of force to the complainant or to a person other than the complainant, or because of threats or fear of the application of force to the complainant or a person other than the complainant, or in consequence of fraud or the exercise of authority.[60]

Additionally, the legislation "require[d] judges to instruct juries to consider the reasonableness of any grounds for belief by the accused that the complainant consented to the assault."[61] However, as I indicate further in this chapter, the ambiguity surrounding consent resulted in the need for new legislation and in 1992, Bill C-49 was introduced to codify what could be constituted as consent.

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[57] Lorenne M.G. Clark, *Evidence of Recent Complaint and Reform of Canadian Sexual Assault Law: Still Searching for Epistemic Equality* (Ottawa: Canadian Advisory Council on the Status of Women, July 1993) at 4.
[58] Ibid at 5.
[59] Ibid.
[60] Ibid at 6.
[61] *House of Commons Debates,* XVII at 20039 (Hon. Jean Chrétien).

The mistaken belief of consent was also clarified with changes in 1983. With the introduction of Bill C-127, a judge could instruct the jury to consider if there was a reasonable basis for believing a woman was consenting, "in order to determine whether his belief in consent was an honest mistake."[62] Evidence would have to be introduced in order to validate the mistaken belief.[63] As stated earlier, the sexist underpinnings surrounding mistaken belief of consent are the myths that "women really mean 'yes' when they say 'no' or all women enjoy being taken by force."[64] But as I detail later in this chapter, it becomes clear that the use of the mistaken belief of consent has been repeatedly argued in defence of those accused of sexual assault. It was only in 1999 that the Supreme Court of Canada in *R. v. Ewanchuk* finally ruled that when a woman says no, she really means no. [65] This demonstrates how deeply ingrained this myth is.

The reforms outlined in Bill C-127 limited the ability of defence to use the victim's sexual history against her in court. A woman's sexual history could be used as evidence "to rebut evidence offered by the Crown."[66] Her history could be used if it was relevant to the issue of identifying the accused. Finally, a woman's sexual history and reputation could be brought up as evidence if "it concerns contemporaneous sexual activity of the complainant that relates to the issue of honest but mistaken belief in consent."[67]

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[62] Lorenne M.G. Clark, *Evidence of Recent Complaint and Reform of Canadian Sexual Assault Law: Still Searching for Epistemic Equality* (Ottawa: Canadian Advisory Council on the Status of Women, July 1993) at 7.

[63] Ibid.

[64] Ibid at 6-7.

[65] At the Appeal Court level, the case was also called the Bonnets and Crinoline case because Judge McClung referred to what the victim was wearing at the time of the sexual assault suggesting that the victim was not dressed in bonnets and crinoline and she could have dealt with the attack by kicking him in the groin.

[66] Ibid at 8.

[67] Ibid.

As Lorenne Clark points out, the circumstances in which a victim's sexual history can be used as evidence relied once again on the stereotypes regarding women's deceitfulness and myths regarding consent. If the Crown suggested that the victim was a virgin prior to the sexual assault, the defence could introduce evidence to the contrary, thus undermining her credibility. Moreover, it still was not made clear that acquiescence does not means consent. For example, in cases of group or gang rape, the defence could still use evidence to suggest that the accused had an honest but mistaken belief in consent:

> The problem seems to come back to the old failure to distinguish genuine consent from passive acquiescence, despite the presence of coercion. The presence or participation of two or more men in such situations should prove coercion to the court. The exception relating to evidence tending to establish the identity of the accused may also be designed to take account of the participation of more than one person in a gang rape. It is difficult to imagine any other case in which the complainant's sexual activity with another person could be relevant to establishing the accused's identity.[68]

Many feminists were upset about this aspect of the reform and, as will be demonstrated later, the victim's sexual history was such a point of legal contention that it led to the introduction of Canada's rape shield law and subsequent Supreme Court challenges.

As well, the reforms introduced in 1983 no longer held that an offence had occurred only if the vagina was penetrated by a penis. Penetration of any organ by any object, as well as touching and fondling, became part of the new provisions governing sexual assault. Thus the law supported feminist contentions that penetration by "bottles, branches, and other harmful and offensive foreign objects and anal or oral penetration by penises or other objects, cause at least as much injury, humiliation and terror as rape itself."[69] This aspect of the new law challenged the myth that rape is only about sex and asserted that rape is about assault, relations of dominance and power.

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[68] Ibid.

Finally, the requirement for victims to complain about their sexual assault promptly was "abrogated" in the reforms of 1983. Instead of relying on the special evidentiary requirement that means the victim must file a complete quickly with police in order to be seen as credible, Boyle suggests that defence counsel will use other alternatives to attack the victim's credibility. This again reinforces the idea that women lie about rape because if it were a "real" rape, the victims would have immediately contacted police. This completely ignores women's fears about coming forward and fears about being negatively treated by police.[70]

Overall, the reforms to sexual assault legislation are viewed as an important step towards addressing what feminists viewed as sexist understandings about rape and women's victimization. The reforms attempted to eliminate myths and stereotypes that had underpinned the prosecution of rape crimes and ultimately, it was hoped that reporting rapes and conviction rates would increase. However, statistically, this did not appear to happen and according to surveys, women remain reluctant to come forward to talk about their sexual assaults because of the pervasiveness of the cultural scripts about sexual violence. In part, I argue the legal discussions and decisions that followed the implementation of the reforms may have also had an impact on women's likelihood to report.

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[69] Ibid at 12.

[70] Christine Boyle, *Sexual Assault* (Toronto: Carswell Company, 1984) at 154.

Court Decisions After 1983 – Reinforcing Or Challenging Rape Myths?

That the new law challenged stereotypes about rape and the gendered nature of rape was evidenced by the first substantive test of the new sexual assault legislation in 1986. At that time, the Court of Appeal in New Brunswick acquitted a man of sexual assault on the grounds that "the modifier 'sexual' in the new offence of sexual assault should be taken to refer to certain parts of the body, particularly the genitalia."[71] In this case, the man had walked into a thirteen-year-old girl's home in New Brunswick and grabbed her breasts.[72] The man was instead found guilty of common assault. In its decision in *R. v. Chase* (hereafter *Chase*), the Supreme Court of Canada ruled that

> there was ample evidence before the trial judge upon which he could find that sexual assault was committed. Viewed objectively in the light of all the circumstances, it is clear that the conduct of the respondent in grabbing the complainant's breasts constituted an assault of a sexual nature.[73]

The Court overturned the common assault conviction and found the defendant guilty of sexual assault.

Indeed, the decision in *Chase* is indicative of the confusion initially created by changing the sexual assault laws to adopt a gender-neutral approach. The Appeal Court in New Brunswick saw the inclusion of the modifier sexual to the crime of assault as requiring an assault on the genitals, suggesting that the breasts were only secondary sexual characteristics like a man's beard and thus the attack was not a sexual one.[74] It also illustrates the persistence of the myth that rape is about sex.

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[71] *R. v. Chase,* [1987] 2 S.C.R. 293 at 3.
[72] Ibid.
[73] Ibid at 13.

Chase also highlights the initial problems with the use of the *Charter* as a tool to promote gender equality. According to Judy Fudge, the effect of the *Charter* on sexual assault legislation has been to funnel political discourse about sexual assault into a conversation about rights. The *Charter*'s ability to rely on the state to respond to "coercive sexual practices and the sexual victimisation of women and children" hardens "the ideological separation between 'public' political sphere and the 'private' economic and social spheres of life."[75] Even when women can use the *Charter* to argue against systemic discrimination, "their equality claim only arises where a governmental law perpetuates this."[76] Prior to its first substantive test of the 1983 reforms, the gender-neutral aspects of Bill C-127 worked at least temporarily against women.

The *Chase* ruling illustrates the phallocentric viewpoint of the judicial system because it demonstrated that the *mens rea,* or intentions and motives, of the accused was dominant in determining if an attack was sexual in nature. The Supreme Court ruled that:

> [t]he intent or purpose of the person committing the act, to the extent that this may appear from the evidence, may also be a factor in considering whether the conduct is sexual. If the motive of the accused is sexual gratification, to the extent that this may appear from the evidence, it may be a factor in determining whether the conduct is sexual. It must be emphasized, however, that the existence of such a motive is simply one of

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[74] Ibid at 3.

[75] Judy Fudge "The Effect of Entrenching a Bill of Rights upon Political Discourse" (1989) 17Int'l J. Soc. L. 455 at 458.

[76] Ibid.

> many factors to be considered, the importance of which will vary depending on the circumstances.[77]

Moreover, the decision to focus to some degree on whether the accused was seeking sexual gratification seems to counter the push by the sexual assault reform to move away from the sexual nature of the crime and toward its more assaultive aspects.

Chase both reinforced and challenged sexual assault myths. First, it challenged the myth that men and women should be treated the same when it comes to defining sexual assault. Clearly, touching a ~~boy on~~ his chest has different connotations than touching a girl on her breasts. However, the Court also reinforced dominant stereotypes about sexual assault by conflating rape with sex, particularly when considering *mens rea*.

In 1991, Canada's sexual assault reform faced its first major test and the resultant Supreme Court of Canada decision changed the face of the legislation, prompting a flurry of protests. The Supreme Court of Canada by ruling on *R. v. Seaboyer* (hereafter *Seaboyer*) and *R. v. Gayme* (hereafter *Gayme*) struck down the so-called rape shield provision of the Criminal Code for sexual assault. Attorneys in *Seaboyer* and *Gayme* submitted to the Supreme Court of Canada that the subsections of the Criminal Code that concern a victim's sexual history contravened the *Charter of Rights and Freedoms* and prevented them from mounting a full defence of the accusations against their client – an example of Fudge's assertion that the *Charter* has narrowed the discourse of rape to a discussion about rights.[78]

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[77] *R. v. Chase*, [1987] 2 S.C.R. 293 at 15.

[78] Judy Fudge "The Effect of Entrenching a Bill of Rights upon Political Discourse" (1989) 17Int'l J. Soc. L. 455 at 458.

The Supreme Court disagreed with the defence regarding the exclusion of evidence of the victim's sexual reputation and ruled that the idea that "a complainant's credibility might be affected by whether she has had other sexual experience is today universally discredited. There is no logical or practical link between a woman's sexual reputation and whether she is a truthful witness."[79] In other words, the Court disputed the myth that women lie about rape or that their sexual history is relevant.[80] However, the Supreme Court did rule that the Criminal Code section that allowed for a blanket exclusion of sexual history evidence was flawed. As discussed earlier in this chapter, the Criminal Code allowed for the exclusion of evidence with three exceptions: rebuttal evidence, evidence regarding the identity of the accused and evidence that consent had been given to the sexual activity under question.[81] The purpose of this section in the Criminal Code was to abolish the "outmoded, sexist-based use of sexual conduct evidence," but the Supreme Court determined that it "overshoots the mark and renders inadmissible evidence which may be essential to the presentation of legitimate defences and hence to a fair trial."[82]

Many feminists saw the Supreme Court decision in *Seaboyer* and *Gayme* as potentially dangerous. In essence, the decision "to admit or exclude evidence of past sexual history would no longer be constrained by the Criminal Code, but would instead be left largely to the discretion of individual trial judges."[83] For many feminists, the adjudication of law continues to be "constructed around a masculine subject and an associated set of masculine characters associated with masculinity are valued by law."[84] Thus, leaving the trial judges with the power to exclude or include evidence on sexual history could mean the privileging of the male perspective in sexual violence. This decision could be viewed as potentially reinforcing the dominant myth that a woman with a sexual past cannot be sexually assaulted.

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[79] *R. v. Seaboyer; R. v. Gayme.* [1991] 2 S.C.R. 577 at 581.

[80] Helen Benedict, *Virgin or Vamp: how the press covers sex crimes.* (Oxford: Oxford University Press, 1992) at 17.

[81] *R. v. Seaboyer; R. v. Gayme.* [1991] 2 S.C.R. 577 at 581.

[82] Ibid at 582.

As a result of the Supreme Court decision, Parliament went back to the drawing board in 1992 to write a new bill that would govern sexual character evidence in sexual assault laws. It introduced Bill C-49 as a way to minimize the number of occasions on which a complainant's sexual character could be brought up in a sexual assault trial. The new bill "set out a new test that judges will use to determine whether a complainant's sexual history may be used to be admitted at trial."[85] Under the new provisions, a decision to hear about complainant's sexual history has two stages. First, an application for a hearing must be made to a judge, and if that application is successful, it will then be considered by a judge in camera and in the absence of a jury.[86] For some feminists and politicians, the enactment of Bill C-49 was viewed as a victory because it provided the courts with a new rape shield law that would "protect women and children."[87]

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[83] Renate M. Mohr and Julian V. Roberts "Sexual Assault in Canada: Recent Developments" in Julian V. Roberts and Renate M. Mohr eds. *Confronting Sexual Assault: A Decade of Legal and Social Change* (Toronto: University of Toronto Press, 1994) 3 at 10.

[84] Margaret Davies "Taking the inside out" in Ngaire Nafffine and Rosemary J. Owens eds. *Sexing the Subject of Law* (North Ryder: LBC Information Services, 1997) 18 at 28.

[85] Renate M. Mohr and Julian V. Roberts "Sexual Assault in Canada: Recent Developments" in Julian V. Roberts and Renate M. Mohr eds. *Confronting Sexual Assault: A Decade of Legal and Social Change* (Toronto: University of Toronto Press, 1994) 3 at 11.

[86] Michelle Fuerst "Canada's Rape-Shield Legislation" in *National Crime Law Program, Criminal Procedure and the Charter* (St. John's Newfoundland: Memorial University, July 1995) 1 at 7.

However, for others there were still problems with this legislation. For example, the 1992 legislation provided a new definition of consent and restricted the defence's use of mistaken belief in sexual assault cases. The definitional boundaries of consent provided a list of what would *vitiate* consent, but did not provide a list of what *constituted* consent.[88] According to this list, consent did not occur

> if someone else agreed to sex on the complainant's behalf; if the complainant was incapable of giving consent; if the accused had abused "trust, power or authority" to obtain consent; if the complainant "expresses by word or conduct a lack of agreement to engage in the activity" or if the complainant changes her mind during the conduct in question.[89]

Kevin Bonnycastle argues that these changes to the Criminal Code "perpetuate a discourse of domination" because the female victims are constructed to be passive and powerless.[90] She further contends that the legislative changes "reify male sexuality as unchangeably coercive," endorsing the rape script of male masculinity triumphing over feminine resistance.[91]

With these changes the law is set up in oppositional terms, with one binary viewed as being subordinate. In other words, there is no room for "the concept of submission in the dichotomy of consent/non-consent."[92] That is because law only allows for one truth and there is allowance for the ambiguity of rape. A woman may submit because she is afraid for her life, her job or the safety of her children. Yet, submission is not part of the artificial binary. It is merely seen as consent. Moreover, when a rapist is found not guilty in court, the law is also finding "sexual complicity on the part of the victim. The woman must have lied. In this way the phallocentric view of women's capricious sexuality is confirmed. In the symbolic sense, every rape case that fails is a victory of phallocentric values."[93] From this perspective, the 1992 legislative changes can be viewed as reinforcing two dominant myths. The first is that men cannot control their sexual impulses. The second is that women lie about rape.

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[87] Don Stuart "Sexual Assault: Substantive Issues Before and After Bill C-49" (1992-1993) 35 Crim. L. Q. 241 at 247.
[88] Patricia Kazan "Sexual Assault and the Problem of Consent" in Stanley G. French et. al. eds. *Violence Against Women: Philosophical Perspectives* (Ithaca: Cornell University Press, 1998) 27 at 27.
[89] Heather MacIvor *Women and Politics in Canada* (Peterborough: Broadview Press, 1996) at 167.
[90] Kevin Bonnycastle "Rape Uncodified: Reconsidering Bill C-49 Amendments to Canadian Sexual Assault Laws" in Dorothy E. Chunn and Dany Lacombe eds. *Law as a Gendering Practice* (Don Mills: Oxford University Press, 2000) 60 at 73.
[91] Ibid.

In 1994, the Supreme Court of Canada was again asked to make a ruling regarding Canada's sexual assault laws. In *R. v. Daviault* (hereafter *Daviault*), the accused, Henri Daviault, was acquitted of sexual assault in a Quebec court because it was argued that his extreme intoxication was "tantamount to state of automatism" that would "negate intent required for general intent offence."[94] The Court of Appeal overturned the acquittal and the case was appealed to the Supreme Court in February 1994.

In this case, the complainant was a 65-year old disabled woman who was confined to a wheelchair. She and the accused (the husband of a friend) began drinking brandy. She consumed part of a glass of brandy and fell asleep. When she awoke to go the bathroom, "the accused appeared, grabbed her chair, wheeled her into the bedroom, threw her on the bed and sexually assaulted her."[95] The complainant subsequently found that while she was sleeping, the accused, a chronic alcoholic, had consumed the rest of the 40 ounce bottle of brandy. This was on top of the alcohol he had consumed earlier in the day, as he testified that he had "spent the day at a bar where he had consumed seven or eight bottles of beer."[96]

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[92] Carol Smart *Feminism and the Power of Law* (New York: Routledge, 1989) at 34.
[93] Ibid.
[94] *R. v. Daviault* [1994] 3 S.C.R. 63 at 63.

The trial judge found that the accused had committed the offence but acquitted him "because he had a reasonable doubt about whether the accused, by virtue of his extreme intoxication, had possessed the minimal intent necessary to commit the offence of sexual assault."[97] The Court of Appeal disagreed and ordered a verdict of guilty be entered in the case, because "a defence of self-induced intoxication resulting in a state equal to or akin to automatism or insanity is not available as a defence."[98] In the majority decision, the Supreme Court ruled that the "mental aspect of an offence has long been recognized as an integral part of crime, and to eliminate it would be to deprive an accused of fundamental justice."[99] It ruled that it would be up to the accused to prove that he or she was so intoxicated as to be in a robot-like state.[100] A new trial was ordered, but the complainant died before it could be held.

The *Daviault* case shows to the extent to which the court's focus on *mens rea*, or the criminal intent in sexual assault laws is highly problematic. In *Daviault*, the Supreme

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[95] Ibid at 65.
[96] Ibid.
[97] Ibid at 64.
[98] Ibid.
[99] Ibid.
[100] Ibid.

Court of Canada accepted the drunken defence in sexual assault, leaving it up to the defendant to prove that inebriation diminished his intent. Again, in the oppositional binaries of legal discourse, this privileges the male viewpoint over the female. As with many other crimes, sexual assault requires the court to consider a man's mental state at the time of the offence, however, the "problem is that the injury of rape lies in the meaning of the act to its victim, but the standard for its criminality lies in the meaning of the act to the assailant."[101] In other words, the defendant's view of sexual assault constitutes what really happened[102] and at its heart, the automaton defence in the *Daviault* decision reinforced the myth that rapists are crazy or out of control.[103]

The Supreme Court decision in *Daviault* created an uproar amongst women's groups. A spokesperson for the Canadian Association of Sexual Assault Centres asked: "How many more excuses for male violence can there be?"[104] The federal government responded quickly and drew up new legislation five months after the *Daviault* decision which affirmed that self-induced intoxication could not be used as an excuse for the commission of a crime. This effectively challenged the rape myth that being out of control is an excuse for raping women.

In 1995, Canada's sexual assault legislation once again was tested at the Supreme Court. The Court was asked to make two major decisions dealing with the issue of sexual assault. The first – *R. v. Park* (hereafter called *Park)* -- looked specifically at the issue of the mistaken belief defence in sexual assault trials. The second – *R. v. O'Connor* (hereafter called *O'Connor*) dealt with the issue of disclosure of personal records in sexual assault cases.

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[101] Catharine MacKinnon *Toward a Feminist Theory of the State.* (Cambridge: Harvard University Press, 1989) at 180.
[102] Ibid.
[103] Helen Benedict, *Virgin or Vamp: how the press covers sex crimes.* (Oxford: Oxford University Press, 1992) at 15.
[104] "Sobering questions: an Alberta case raises new debate over the so-called drunk defence (Carl and Kim Blair case and the Henri Daviault case) *Maclean's* (14 November 1994) 100.

In *Park*, the Supreme Court was called upon to rule on the issue of mistaken belief defence in sexual assault trials. Daryl Park was convicted in an Alberta court, but that conviction was overturned in the Alberta Court of Appeal. The case was then sent to the Supreme Court of Canada. The accused was charged after he had engaged in sexual activity with a woman he had been dating. According to the Supreme Court, the pair had had one date previously in which they discussed birth control and the fact that, as a born again Christian, she did not believe in pre-marital sex. The night of the incident, the accused called the complainant early in the morning and she greeted him at the door wearing only a bathrobe. According to the complainant's testimony

> she resisted actively, both verbally and physically, but he was stronger. She described in considerable detail the assault. Feeling his weight atop her, she had a flashback to a previous traumatic experience and went into "shock". The next thing she remembered, he was pulling his penis out of her and ejaculating on her stomach. She fled to the bathroom, needing to vomit. He dressed and kissed her goodbye on the cheek as he left.[105]

The accused, meanwhile testified that the complainant was an active participant in the sexual activity and "when things began to get 'hot', he prematurely ejaculated on her stomach."[106] He testified that no intercourse took place and at trial, his defence was that

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[105] *R. v. Park* [1995] 2 S.C.R. 836 at 844 and 845.
[106] Ibid at 845.

"the complainant consented to the sexual activity or, in the alternative, that he had an honest but mistaken belief that she was consenting."[107]

He was convicted, but the conviction was set aside by the Alberta Court of Appeal on the view that the trial judge had erred because he did not tell the jury about the possibility that the perpetrator had a mistaken belief that consent had occurred. The Supreme Court subsequently restored the conviction, ruling that there must be an "air of reality" that would support a mistaken belief in consent. Writing for the majority, Madame Justice L'Heureux-Dubé outlined the cases in which mistaken belief in consent could be used in sexual assault cases. She explained that the air of reality threshold should be used to consider

> the significance of the absence or presence of an actual allegation by the accused of mistaken belief; the extent to which the accused's version must be corroborated; and the effect on the trial if the accused and the complainant tell diametrically opposed stories. This discussion will be followed by observations that may assist trial judges in identifying circumstances in which there clearly is no air of reality to the honest mistake defence.[108]

In her decision, L'Heureux-Dubé took issue with the *mens rea* consideration in sexual assault. She suggested that the "current common law approach to the *mens rea* of sexual assault may perpetrate social stereotypes that have historically victimized women and undermined their equal right to bodily integrity and human dignity."[109] She made it clear that from a practical perspective, consent could not be something that the accused believed had occurred. Instead, it had to be a tangible act which can be used as evidence.[110] The Supreme Court was in essence challenging the belief that the man's version of the events in sexual assault cases should have primacy and, by extension, deconstructing the myth that sexual assault is merely misunderstood sexual signals.

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[107] Ibid at 837.
[108] Ibid at 847.
[109] Ibid at 839.

Also in 1995, the Supreme Court was called upon to determine when the defence could use private counselling records in sexual assault trials. In this case, the outcome was viewed as having significantly negative effects on women. In *R. v. O'Connor* (hereafter *O'Connor*), the Court was asked, in part, to determine the procedure that was to be followed when the accused in a sexual assault case seeks production of records that were being held by a third party. The records in question were medical and counselling records. Bishop Hubert O'Connor had been charged with sexually assaulting four Aboriginal women at residential schools in BC at which O'Connor was a priest and principal. The incidents occurred in the 1960s, after the women had concluded their education and while employed by the school under O'Connor's supervision. O'Connor admitted having sex with two of the women, but insisted that the sex was consensual.[111]

The trial judge ordered that the women's residential school and employment records be released to the defence, outraging many feminists because these records were "likely prepared by O'Connor himself."[112] A few days after the trial began, the judge ordered that the charges be stayed for abuse of process. He found that "the Crown's tardiness in handing over the records and the possibility that not all the records had been handed over had tainted the trial process."[113]

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[110] Ibid at 840.

[111] Karen Busby *Discriminatory Uses of Personal Records in Sexual Violence Cases: Notes for sexual assault counsellors on the Supreme Court of Canada's decision in R. V. O'Connor and L.L.A. v. A.B.* (Ottawa: National Association of Women and Law, 1996) at 24.

[112] Ibid.

The Crown appealed the decision to the British Columbia Court of Appeal, which directed a new trial. The Supreme Court of Canada was then asked to make two determinations. First, did the issue of non-disclosure by the Crown justify a stay of proceedings? Second, what is the appropriate procedure to follow when an accused seeks medical and counselling records? On the first point, a 6-3 majority of the Supreme Court, "while criticizing the Crown Attorneys in the case, also held that the charges should not have been stayed and that O'Connor should stand trial."[114] On the second point, the Court was split quite extensively on the proper procedure to follow regarding disclosure and the production of personal records in the hands of the Crown and third parties.[115]

On the issue of producing records in the possession of the Crown, Chief Justice Antonio Lamer and Justice John Sopinka, writing for the majority, suggested that personal counselling records are intensely personal; however, because the Crown was in possession of those records, regardless of the privacy involved, they should be handed over to the defence. [116] The majority determined that the Crown should obtain a waiver from the complainant before seeking personal records, but if the records had already been shared with the Crown, the complainant had lost all right to privacy.[117] In some cases, the majority noted the complainant's record keepers may be the ones who approach the Crown with information regarding the complainant and that information as well would be considered to be information that must be shared with the defence.[118] However, Justices Gérard La Forest, Claire, L'Heureux-Dubé, Charles Gonthier and Beverly McLachlin disagreed, suggesting that the appeal should not be concerned with determining the Crown's obligations to disclose third party records and a discussion regarding disclosure to be *obiter,*[119]or incidental to the case.

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[113] Ibid.

[114] Karen Busby "Discriminatory Uses of Personal Records in Sexual Violence Cases" (1997) 9. C.J.W.L. 148 at 153.

[115] Ibid.

[116] *R. v. O'Connor* [1995] 4 S.C.R. 411 at XII.

As for the disclosure of records in the possession of a third party, the Supreme Court decision was even more fractured. Writing for the majority, Chief Justice Lamer and Justice Sopinka discussed the issue of relevance regarding information in the hands of third parties. The majority wrote that counselling records would be considered relevant if they contained information regarding the unfolding of events. More significantly, counselling records would be considered relevant if they revealed that therapy had influenced the complainant's memory. The majority then laid out a two-step procedure under which disclosure could occur. It wrote that the accused should formally apply for disclosure, setting out the grounds for production. Once the records have been produced, the judge would then make the decision about whether they would then be given to the accused. According to Lamer and Sopinka, in order to make that determination, the judge should consider a number of factors. First, it must be determined to what extent the record is necessary for a full defence. Next, its probative value must be examined. Then the judge must determine the complainant's expectation of privacy and whether the production of the record relied on biases or discriminatory beliefs and finally, the "potential prejudice to the complainant's dignity, privacy or security of person that would be occasioned by production of the record."[120]

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[117] Karen Busby "Discriminatory Uses of Personal Records in Sexual Violence Cases" (1997) 9. C.J.W.L. 148 at 155.
[118] Ibid at 156.
[119] *R. v. O'Connor* [1995] 4 S.C.R. 411 at XCVII.

Justices La Forest, L'Heureux-Dubé, McLaughlin and Gonthier dissented on this issue. They wrote that "witnesses have a right to privacy in relation to private documents and records" and that the production of third party records is using the power of the State to violate privacy rights suggesting that "(p)rivacy and equality must not be sacrificed willy-nilly on the altar of trial fairness." [121] The Justices outlined four instances in which such use of State power was justifiable: if the accused could not obtain the information through any other means; that the production of such information must be necessary to allow for a full answer and defence; that the arguments rest "on permissible chains of reasoning, rather than upon discriminatory assumptions and stereotypes"; and that there is some proportionality between the beneficial and harmful effects that the production of the records may induce.[122]

In their dissent, the Justices also outlined a two-step procedure under which third-party records could be introduced. They made it clear that the production of these records should be more than just a "fishing expedition" with the burden placed on the accused to demonstrate that their relevance is a significant one. They wrote that the defence could not ask for the production of records on the assertion that it may determine the type of person the witness is; nor should the records be used to attack the complainant's general credibility. Further, the defence could not use the records as a way of exploring whether the individual had made allegations of sexual abuse against other persons and they could not be used to determine if the complainant had a medical or psychiatric record that would make testimony unreliable. Finally, and perhaps most importantly, the minority wrote that:

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[120] Ibid at CLVI.
[121] Ibid at CXXX.
[122] Ibid at CXXXII.

> it must not be presumed that the mere fact that a witness received treatment or counselling after a sexual assault indicates that the records will contain information that is relevant to the defence. The focus of therapy is vastly different from that of an investigation or other process undertake for the purposes of the trial. While investigations and witness testimony are oriented toward ascertaining historical truth, therapy general focuses on exploring the complainant's emotional and psychological responses to certain events after the alleged assault takes place.[123]

While the minority agreed with the majority's outline of factors that should be considered in making a decision to release third party records to the accused, it asserted that the judge should also consider the impact the production of confidential records may have on the potential for victims to report sexual assault and to seek counselling.[124]

For feminists, the *O'Connor* decision was seen as the continuation of a disturbing trend in sexual assault trials. After the 1992 rape shield law was passed preventing the use of a woman's sexual history against them in sexual assault trials, diaries and medical and psychiatric records became the new battleground on which to question a victim's credibility. Thus the release of confidential records to the defence reinforces the myth that women lie about sexual assault. Additionally, *O'Connor* was seen as an endorsement of defence practises that attack the "credibility, motive and character of the victim."[125] Gotell suggests that the *O'Connor* decision shrank the "category of who is rapable."[126] Women, particularly those who have been documented by government officials or medical professionals such as aboriginal women, women with mental disabilities and immigrant women "were especially vulnerable to records applications."[127] The National Council of Women and Justice (NCWC) saw *O'Connor* as the continuation of yet another rape myth: that women who report rape are "likely to be liars, discreditable, or easily duped."[128] Beginning in 1994, women's groups and anti-violence activists had been pushing the federal government to curb the use of confidential counselling records in sexual assault trials. By 1997, the government introduced Bill C-46 and in 1998, the bill became law. Bill C-46 was an amendment to the Criminal Code of Canada that set out the procedure for the production of third-party records in sexual assault cases.

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[123] Ibid at CXLIV.
[124] Ibid.

While the majority decision in *O'Connor* was seen as giving little weight to equality issues or privacy concerns, Bill C-46 was seen as just the opposite. The amendments were viewed as a "direct almost point-by-point refutation of the majority judgment. The Bill vindicates the approach taken by the minority."[129] As outlined in the preamble, the

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[125] Karen Busby *Discriminatory Uses of Personal Records in Sexual Violence Cases: Notes for sexual assault counsellors on the Supreme Court of Canada's decision in R. V. O'Connor and L.L.A. v. A.B.* (Ottawa: National Association of Women and Law, 1996) at 24.

[126] Lise Gotell, "The Ideal Victim, the Hysterical Complainant, and the Disclosure of Confidential Records: The Implications of the *Charter* for Sexual Assault Law" (Winter 2002) 40 Osgoode Hall L.J. 253 at 262.

[127] Ibid.

[128] Canada, Parliament, Standing Committee on Justice (12 March 1997) at 1535.

[129] Bruce Feldthusen "Access to the Private Therapeutic Records of Sexual Assault Complainants" (December 1996) 75 Can. Bar Rev. 537 at 562.

Bill was aimed at encouraging "the reporting of incidents of sexual violence and abuse" as it recognized that ordering the production of personal information may "deter complainants of sexual offences from reporting the offence."[130]

Bill C-46 outlined a two-step procedure that must be followed before third-party records could be considered by the courts. First, an application must be made in writing to the trial judge. In the application, the defence has to clearly outline under what grounds it sees the records as relevant. The bill made it clear what grounds would be considered insufficient. These included the belief that the complainant is mentally incompetent merely because the complainant is receiving psychiatric treatment; if the record reveals allegations of sexual abuse against another person; if the record indicates the complainant's sexual history; and if the record discloses inconsistent statements from the complainant.[131] This made it clear that there are only limited grounds under which personal records would be considered relevant in a sexual assault trial.

At around the same time that Parliament was putting the final touches on Bill C-46, the Supreme Court of Canada was once again called upon to make a ruling regarding the use of confidential records during sexual assault trials in *R. v. Carosella* (hereafter called *Carosella*). Nick Carosella was charged with gross indecency in 1992 after the complainant had gone to a sexual assault centre in Windsor in order to seek advice. The complainant alleged that Carosella had assaulted her in 1964 while she was a student at the school at which Carosella was a teacher. The sexual assault counsellor took notes during her interview with the complainant and the defence brought forward an application for the production of those notes prior to the commencement of the trial in 1994. The Crown, the complainant and the sexual assault centre consented to the order that the centre provide the notes to the trial judge, but it was later determined that the notes had been destroyed prior to the trial in keeping with the sexual assault centre's policies.[132] The trial judge ordered a stay of proceedings, determining that the destruction of the notes seriously prejudiced the case against the accused.

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[130] Bill C-46, *An Act to amend the Criminal Code (production of records in sexual offence proceedings,* 2nd Sess., 35th Parl., 1996-97, preamble (as passed by the House of Commons 17 April 1997).

[131] Bill C-46, *An Act to amend the Criminal Code (production of records in sexual offence proceedings,* 2nd Sess., 35th Parl., 1996-97, cl. 278.3 (as passed by the House of Commons 17 April 1997).

The Ontario Court of Appeal set aside the stay of proceedings and ordered the trial to go ahead. The Supreme Court ruled by a narrow majority to reinstate the stay of proceedings. The majority wrote that the "entitlement of an accused person to production either from the Crown or third parties is a constitutional right."[133] The *Carosella* decision could be distinguished from other sexual assault cases by the fact that the majority clearly found the actions of the sexual assault centre to be offensive.[134] Justice Sopinka, writing for the majority, stated that confidence in the justice system could be "undermined if the administration of justice condoned conduct designed to defeat the processes of the court."[135] It seems ironic that the centre was being castigated for undermining the administration of justice because it, along with other sexual assault centres, had felt that due to the decisions of the justice system they had been placed in such an untenable position.[136] Once again, this decision reinforced the rape myth that women are duplicitous in their rape accusations and placed the issue of sexual assault into an artificial rights-based discussion.

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[132] Heather Holmes "An Analysis of Bill C-46, production of records in sexual assault proceedings" (March 1997) 2 Can. Crim. L. Rev. 71 at 105.

[133] *R. v. Carosella* (1997), 112 C.C.C. at 290.

[134] Heather Holmes "An Analysis of Bill C-46, production of records in sexual assault proceedings" (March 1997) 2 Can. Crim. L. Rev. 71 at 107.

[135] *R. v. Carosella* (1997), 112 C.C.C. at 290.

Two years after the implementation of Bill C-46, the Supreme Court of Canada was called upon to rule on its constitutionality. Brian Mills was charged with one count of sexual assault and one count of sexual touching in Edmonton, Alberta. The complainant was a 13-year old girl. Mills's counsel had obtained some of the complainant's therapeutic records and was seeking the release of additional counselling records when it was informed by the trial judge of the new requirements set out by the passage of Bill C-46. This brought a constitutional challenge, and the trial judge ruled that the provisions under Bill C-46 were unconstitutional. The case was then sent to the Supreme Court of Canada. In November 1999, the Supreme Court ruled in *R. v. Mills* (hereafter *Mills*) in November 1999 that the changes to the Criminal Code were constitutional.

Writing for the majority, Justices L'Heureux-Dubé, Gonthier, McLachlin, Iacobucci, Major, Bastarache and Binnie suggested that the fact that Bill C-46 differs from the rules governing the production of private records set out in *O'Connor* does not make the amendments unconstitutional:

> Parliament may build on the Court's decision, and develop a different scheme as long as it remains constitutional. Just as Parliament must respect the Court's rulings, so the Court must respect Parliament's determination that the judicial scheme can be improved. To insist on slavish conformity would belie the mutual respect that underpins the

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[136] Joan Gilmour "Counselling Records: Disclosure in Sexual Assault Cases" in Jamie Cameron ed. *The Charter's Impact on the Criminal Justice System* (Toronto: Carswell Thompson Canada, 1996) 239 at 256.

> relationship between the courts and legislature that is so essential to our constitutional democracy…[137]

Defence lawyers believed that the Supreme Court of Canada was bowing to political pressure in *Mills*, and at first blush, feminists were happy with the ruling, initially seeing it as sending a strong signal to trial judges to balance the interests of the accused against the interests of the complainant. However, it became clear that the *Mills's* decision "was riddled with ambiguity."[138] *Mills* does establish a criterion for production of confidential records but it also can be read as privileging the defendants' rights while undermining "the protections that the legislative regime sought to erect."[139]

Gotell suggests that the *Mills* decision is contradictory. It was the first time the Supreme Court of Canada used the *Charter* guarantee of sexual equality in determining a sexual assault case. But Gotell suggests that the Court's gestures to "equality and societal concerns are tempered by its framing of complainants' claims through a narrow conception of 'privacy'."[140] The majority's discussion of privacy in therapy situations

> is a highly individualistic and atomistic understanding of complainants' concerns. These concerns are defined primarily in terms of their right to own one's own stories. This kind of analysis conceives the complainant as an isolated individual, not caught up in a web of power relationships that influence her ability to construct an authoritative version of events.

Additionally, according to Gotell, the codified list of considerations that must be used by judges to determine the relevance of counselling records to be introduced at trial allows judges in borderline cases to err on the side of the defendant.

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[137] *R. v. Mills* [1999] 3 S.C.R. 668 at 55.
[138] Lise Gotell, "The Ideal Victim, the Hysterical Complainant, and the Disclosure of Confidential Records: The Implications of the *Charter* for Sexual Assault Law" (Winter 2002) 40 Osgoode Hall L.J. 253 at 255.
[139] Ibid at 255-56.
[140] Ibid at 269.

Gotell contends that post-*Mills* defence counsel have come up with new strategies to introduce the issue of likely relevance. She points to an article in the Criminal Lawyers Association newsletter that "counselled defence lawyers to rigorously cross-examine complainants during the preliminary inquiry as a mechanism for building the evidentiary basis for a finding of likely relevance."[141] This tactic was emphasized by the majority in *Mills* as a means to construct a case-specific evidentiary foundation. Thus, "in a cruel twist it is the complainant who will furnish the evidentiary basis for these applications. Cross-examination at preliminary hearings can also induce complainants to withdraw complaints, to refuse to testify or not to report in the first place."[142]

In February 1999, the Supreme Court of Canada was once again called upon to define consent in sexual assault cases. In *R. v. Ewanchuk,* the court was asked to rule on the concept of implied consent. In June 1994, 44-year old Steve Ewanchuk interviewed a 17-year old woman for a sales clerk position in a trailer parked in a shopping mall parking lot in Edmonton. According to the Alberta Court of Appeal, during the two-and-a-half-hour "interview", Ewanchuk made several sexual advances toward the woman. She said no to each of those advances and when she told the accused she wanted to leave, the interview was completed and the pair walked out of the trailer.[143] The 17-year old subsequently filed charges with police and Ewanchuk was acquitted of sexual assault in provincial court. The Crown appealed the case to the Alberta Court of Appeal.

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[141] Ibid at 291.
[142] Ibid at 292.
[143] *R. v. Ewanchuk* (1998), 57 Alta.L.R. (3d) 235 (Alta. COA).

In the 1998 Alberta Court of Appeal decision, Judges John McClung and Robert Foisy ruled that the appeal be dismissed. The ruling suggested that "[c]onsent may be implied or expressed, and clearly this was a case of implied consent."[144] Judge McClung wrote further that

> Ewanchuk's advances to the complainant were far less criminal than hormonal. In a less litigious age going too far in the boyfriend's car was better dealt with on-site -- a well-chosen expletive, a slap in the face, or, if necessary, a well-directed knee. What this accused tried to initiate hardly qualifies him for the lasting stigma of a conviction for sexual assault.[145]

Chief Justice Catherine Fraser dissented from Judge McClung's ruling, writing that Canada's sexual assault laws were supposed to "protect women from the inappropriate use of stereotypical assumptions about women in cases of sexual assault."[146]

The Crown appealed the case to the Supreme Court of Canada and on February 25, 1999, the Supreme Court determined that the trial judge in the Ewanchuk case made errors of law. At the centre of the case was the definition of consent in Canadian law. The unanimous decision was written by Justice John Major and supported by Chief Justice Lamer and Justices Cory, Iacobucci, Bastarache and Binnie. Justice Major wrote that the issue of implied consent does not exist in law. Further, Justice Major wrote that the accused

> knew that the complainant was not consenting before each encounter. The trial judge ought to have considered whether anything occurred between the communication of non-consent and the subsequent sexual touching, which the accused could have honestly believed constituted consent. The trial record conclusively establishes that the accused's persistent and

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[144] Ibid.
[145] Ibid.
[146] Ibid.

> increasingly serious advances constituted a sexual assault for which he had no defence.[147]

Justices L'Heureux-Dubé and Gonthier agreed with Justice Major and wrote concurring reasons that the issue of consent should not have been discussed because there was no consent. They concluded that the trial judge relied on "myths and stereotypes" and that the trial judge's

> conclusions that the complainant implicitly consented and that the Crown failed to prove lack of consent was a fundamental error given that he found the complainant credible, and accepted her evidence that she said "no" on three occasions and was afraid. This error does not derive from the findings of fact but from mythical assumptions. It denies women's sexual autonomy and implies that women are in a state of constant consent to sexual activity.[148]

Justice L'Heureux-Dubé wrote further that the Alberta Court of Appeal also relied on "inappropriate myths and stereotypes" and that "complainants should be able to rely on a system free from such myths and stereotypes, and on a judiciary whose impartiality is not compromised by these biased assumptions."[149] Justice Beverly McLachlin wrote a third concurring reason saying "stereotypical assumptions no longer find a place in Canadian law."[150] The Supreme Court of Canada made the surprising move to enter a conviction against Ewanchuk rather than ordering a new trial.

By relying on an artificial binary of what constitutes consent and what does not, what the victim does *not* do may well be construed as consent. This was in essence how the defence built its case in *Ewanchuk*. The victim said no, but she did not attempt to leave the trailer; she did not scream; she did not appear to be scared. The defence argued that the accused believed she was consenting, even when she repeatedly said no. At the heart of this case is the stereotype that women really mean yes when they are saying no.[151] This is also an example of how the male voice is privileged in legal discourse while the victim's is silenced. For the defence the only important issue is that the accused understood her acquiescence as consent.

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[147] *R. v. Ewanchuk* [1999], 1 S.C.R. 330 at 334.
[148] Ibid at 335-336.
[149] Ibid.
[150] Ibid.at 336.

The *Ewanchuk* decision could be viewed as challenging the dominant myths about sexual assault and consent, but it seems remarkable that it took more than 10 years for the Supreme Court of Canada to make the affirmation that no actually means no in sexual assault cases. It is even more remarkable that the decision was resoundingly denounced as feminist posturing as evidenced by the vitriolic responses printed in the *National Post* following the Supreme Court decision. One high-profile defence lawyer wrote in the *Post*: "The feminist perspective has hijacked the Supreme Court of Canada and now feminists want to throw off the bench anyone who disagrees with them."[152]

A Supreme Court of Canada decision in 2000 completed what some feminists saw as a "trilogy of important sexual assault cases" in combination with *Mills* and *Ewanchuk.*[153] In *R. v. Darrach* (hereafter called *Darrach*), the Supreme Court of Canada upheld Canada's rape-shield law in a unanimous ruling. Andrew Scott Darrach and the complainant had worked together and at one point had been in a relationship. Despite the break-up of that relationship, they remained friendly and continued to see each other casually, as they lived close to one another. At one point, the accused asked to borrow money from the complainant and after meeting him to repay the loan, the accused and the complainant walked back to her apartment where he sexually assaulted her.[154]

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[151] Lorenne M.G. Clark, *Evidence of Recent Complaint and Reform of Canadian Sexual Assault Law: Still Searching for Epistemic Equality* (Ottawa: Canadian Advisory Council on the Status of Women, July 1993) at 6-7.

[152] Allan Greenspan "Judges have no right to be bullies" *National Post* (02 March 1999) A18.

[153] Pamela Cross "Defining the use of sexual history: What does *Darrach* mean for us?" (December 2000), online: Ontario Women's Justice Network http://www.owjn.org/issues/assault/history.htm.

The trial in the Ontario Provincial Court lasted over a year. In a strategy reminiscent of the *Seaboyer* and *Gayme* defence, Darrach's lawyer argued that the rape shield legislation violated the accused's *Charter* rights. He also attempted to introduce the complainant's sexual history. The trial judge did not allow the evidence of prior sexual history, ruling that the accused had failed to provide a link between the complainant's sexual history and his defence of a mistaken belief of consent. Darrach was sentenced to nine months in prison. The case was appealed to the Ontario Court of Appeal, which upheld the trial judge's findings. It was then argued before the Supreme Court of Canada.[155]

The Supreme Court of Canada, in a unanimous ruling written by Justice Charles Gonthier, dismissed the appeal. Justice Gonthier referred to *Seaboyer* in determining that the accused's rights were not infringed, arguing that "the legislation enhances the fairness of the hearing by excluding misleading evidence from trials of sexual offences."[156] As

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[154] Pamela Cross "Defining the use of sexual history: What does *Darrach* mean for us?" (December 2000), online: Ontario Women's Justice Network http://www.owjn.org/issues/assault/history.htm.
[155] Pamela Cross "Defining the use of sexual history: What does *Darrach* mean for us?" (December 2000), online: Ontario Women's Justice Network http://www.owjn.org/issues/assault/history.htm.
[156] *R. v. Darrach* [2000] 2 S.C.R. 443 at 21.

Justice Gonthier pointed out, it still allows the "accused's right to adduce relevant evidence that meets certain criteria and so to make full answer and defence."[157]

The accused also launched the challenge because he felt that the procedural sections of the Criminal Code violated his right not to be compelled to be a witness against himself. Justice Gonthier again made it clear that this was not a violation of the *Charter*:

> The arguments relating to self-incrimination fail because s. 276 does not create a legal compulsion to testify. The accused participates voluntarily in order to exculpate himself. Because he seeks to introduce evidence about the complaint's sexual activity, it is up to him to show how it is relevant. The presumption of innocence is preserved because the Crown still bears the burden of proving all the elements of the offence....The balance struck in *Seaboyer* among the interests of justice, the accused and the complainant is preserved in the present legislation.[158]

Thus, the appeal was dismissed in its entirety and his conviction and sentence remained in place. He was sentenced to 9 months in prison. *Darrach* therefore, posed a clear challenge to the rape myth that women with a sexual history cannot be raped.

As this overview of Supreme Court decisions indicates, there has been considerable discussion about the issue of rights in sexual assault jurisprudence. Supreme Court jurists have had to weigh the victim's right to security of person and privacy against the accused's right to a fair trial and as has been demonstrated often, particularly at the trial court level, it is the accused's right that has been given primacy. Artificial binaries created by those legal tensions and the perceived privileging of the accused's rights over the victim's have been the starting point for many feminists' critique of law.

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[157] Ibid..
[158] Ibid at 22.

In the decisions made by the Supreme Court of Canada in the years following the reform of sexual assault legislation, the myths and stereotypes about this crime have been both reinforced and challenged. In *Chase*, the Supreme Court reinforced the conflation of rape with sex and focused on the accused's intent to determine if the attack was sexual in nature. In *Seaboyer* and *Gayme*, many feminists saw the court privileging the male perspective in sexual violence and potentially reinforcing the myth that only chaste women can be raped. The implementation of Bill C-49 restricted the use of mistaken belief in sexual assault cases. However, its boundaries did not provide a full list of what constituted consent prompting some to argue that it reinforced the belief that men are incapable of controlling their sexuality. This once again conflated rape with sex. *Daviault* caused an uproar as the automaton defence was viewed as reinforcing the myth that rapists are crazy or out of control. The government of Canada was left with little choice but to implement legislation that would not allow intoxication to be used as an excuse for sexual violence. The *Park* decision can be seen as a clear challenge to the sexual assault myth that sexual assault is really just "romance gone wrong." In *Park,* the Court made it clear that the accused's version of events should not be given primacy.

But that one step forward was met by another step backwards. The *O'Connor* decision regarding the defence's use of a victim's counselling records was viewed as underpinning the myth that women lie about rape. Again, the Canadian government was forced to step in to create legislation outlining how third-party records can be released in sexual assault trials. The Supreme Court of Canada upheld the constitutionality of the legislation with its ruling in *Mills*. However, feminists continue to be worried about the implication of *Mills* as potentially reinforcing the myth that women lie about sexual assault. Then, the Supreme Court made it clear in *Ewanchuk* that there is no such thing as implied consent, thus challenging the myths that women are always sexually available to men and second that women ask to be raped through their behaviour. Finally, in *Darrach*, the myth that women who have had a sexual past cannot be raped was firmly disputed.

The Supreme Court of Canada has refuted some powerful sexual assault myths in its rulings in the twenty years since the reforms to sexual assault legislation were put in place. It has attempted to rewrite the myths and stereotypes about sexual violence. While the Court has rewritten the story of rape, it is not clear that the new story is being heard.

Sexual Assault In Canada – Why Women Do Not Report

The 1983 reform of the Criminal Code replaced the offences of rape, attempted rape, and indecent assault on male and female victims with a tripartite classification of sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault. The aim of the legislation was fourfold. It was intended to increase the number of sexual assaults reported to police, bolster the victim's confidence in the criminal justice system, improve the efficiency of police processing in sexual assault cases and, finally, increase the proportion of cases that resulted in a prosecution.[159] Statistical evidence suggests that these goals have not been met.

When reforms were introduced in 1993, there was at least an initial increase in the number of sexual assaults reported.[160] However, a more recent survey conducted in 1999 indicates that the number of reported cases of sexual assault is now steadily declining.[161] Statistics suggest that the violent crime rate from 1977 to 1993 increased every year, while the sexual assault crime rate remained relatively steady. In 2001 the violent crime rate was down by 6% compared to ten years earlier, while the 2001 sexual assault rate declined much further to 27% lower than in the previous decade.[162] Researchers are not sure if the reason for the falling statistics "reflect actual trends in changing levels of sexual violence in Canadian society, or changes in the willingness of sexual assault victims to bring these to the attention of the police";[163] however, given women's historical reluctance to report sexual assault and the responses to the General Social Survey, I would argue that women are still not reporting sexual violence to police.

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[159] Julian V. Roberts and Robert J. Gebotys, "Evaluating Criminal Justice Legislation: Effects of Rape Reform in Canada" in Julian V. Roberts and Joe Hudson, eds., *Evaluating Justice: Canadian Policies and Programs* (Toronto: Thompson Educational Publishing, 1993) 155 at 155.

[160] Julian V. Roberts and Michelle G. Grossman, "Changing Definitions of Sexual Assault: An Analysis of Police Statistics" in Julian V. Roberts and Renate M. Mohr, eds., *Confronting Sexual Assault: A Decade of Legal and Social Change* (Toronto: University of Toronto Press, 1994) 57 at 77.

[161] Canada, Federal-Provincial-Territorial Ministers Responsible for the Status of Women, *Assessing Violence Against Women: A Statistical Profile* (Ottawa, National Library of Canada, 2002) at 20.

[162] Statistics Canada, *Canadian Crime Statistics 2001* (Ottawa: Canadian Centre for Justice Statistics, 2001) at 9.

[163] Canada, Federal-Provincial-Territorial Ministers Responsible for the Status of Women, *Assessing Violence Against Women: A Statistical Profile* (Ottawa, National Library of Canada, 2002) at 20.

Sexual assault is an important issue for Canadian women. According to Statistics Canada, in 2002 there were 27,094 sexual offences reported to police.[164] Rates of occurrence of sexual offences were highest in Canada's territories and in Saskatchewan and Manitoba while Quebec and Ontario recorded the lowest rates.[165] Cities with the highest rates of police-reported sexual violence are Saskatoon, Sudbury and Regina.[166] Women are more likely than men to be victims of sexual assault and children are particularly vulnerable. According to Statistics Canada, in 2002 "over half (61%) of all victims of sexual offences reported to police were children and youth under 18 years of age."[167] For adults, reported rates of sexual assaults were highest for young women between the ages of 15 to 24 and among single, separated or divorced women, students, those who lived in cities or earned less than $15,000 a year.[168] Almost half of sexual assault victims report that they know the offenders with most of the assaults occurring between friends or acquaintances. Children under 12 are more likely to have been victimized by family members.[169]

While the victims captured in police statistics are overwhelmingly female, the perpetrators are overwhelmingly male. The majority of the persons accused of sexual assault (97%) in 2002 were men. What is particularly interesting is that the rate of sexual offending is highest among young males aged 13 to 17. When compared to their older counterparts, these young males are more likely to assault victims who are their own ages and are known to them. Moreover, the attacks are more likely to take place in a home or in or around schools. These attacks are somewhat more likely to be dealt with informally by police."[170]

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[164] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, no. 6) at 2.
[165] Ibid at 3.
[166] Ibid at 4.
[167] Ibid at 7.
[168] Ibid.
[169] Ibid at 8.

The official crime rates as recorded by police provide only a partial understanding of sexual victimization in Canada. Instead, victimization surveys must also be employed as a supplement to police statistics. Victimization surveys ask people directly about crimes, and thus the statistics the surveys provide include both reported and non-reported incidents of crime.[171] A Violence Against Women Survey conducted in 1993 estimated that 39% of Canadian women have experienced some form of sexual violence after the age of 16.[172] A 1999 General Social Survey (GSS) conducted by Statistics Canada indicated that 78% of sexual assault crimes were never reported to police.[173] By comparison, physical assaults that could be arguably considered comparable to sexual assaults have a significantly lower unreported rate at 61%.[174]

It is of course difficult to pinpoint why victims do not report their victimization to police. In the GSS conducted in 1999, 391 victims of sexual assault were asked why they did not report the crime to police, and they gave a number of reasons for their silence. [175] Some stated that they would deal with the incident in another way (61%), or they felt that it was a personal matter and it did not concern the police (50%) and some suggested that the did not want to get the police involved (47%), did not feel the police could do anything (33%), or did not think the police could help (18%). Some did not report out of fear of retaliation (19%).[176] For the purpose of this study, the statistic that is most interesting is that 14% answered that fear of publicity or news coverage regarding the sexual assault stopped them from reporting the crime to police. This suggests that analyzing the way the media report sexual assaults is important because it is viewed by a significant percentage of women as a barrier to reporting their sexual victimization to police.[177] Secondly, 50% of the respondents did not feel that their sexual assault was important enough to report to police is also significant. As will be addressed in subsequent chapters, the media by elevating some issues for coverage and devaluing others, set the agenda for what is viewed as important in the mind of the public. By ignoring sexual assault crimes or only focusing on sensational sexual assaults, the media suggest that "everyday" sexual violence is not important thus normalizing sexual violence against women.

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[170] Ibid.

[171] Ibid at 6.

[172] Federal-Provincial-Territorial Ministers Responsible for the Status of Women *Assessing Violence Against Women: A Statistical Profile* 2002 at 19.

[173] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, no. 6) at 6.

[174] Ibid at 2.

[175] Respondents could answer could provide multiple responses and thus the percentages do not add up to 100%.

Table 2.1: Reasons for not reporting sexual assault to police, 1999[178]

Reason	Frequency	Percentage
Dealt with another way	237	61%
Not important enough	195	50%
Personal matter/does not concern police	194	50%
Did not want to involved police	182	47%
Police could not do anything	130	33%
Fear of revenge	73	19%
Police would not help	70	18%
Fear of publicity/news coverage	56	14%

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[176] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, no. 6) at 17.
[177] Ibid.
[178] Ibid.

Another survey published in 1992 indicates a high percentage of people sampled said they would turn to police to report their sexual assault (86%).[179] However, according to this survey, individuals were most likely to contact the police if they thought they would receive justice.[180] As well, respondents were asked what their principle concern would be in the event of sexual victimization and they responded that they were concerned about the defence counsel asking questions about their personal life.[181] Indeed, this is a very real concern. The Supreme Court of Canada has been called on several times to determine when a victim's sexual history can be discussed in court. There has also been considerable discussion regarding admissibility of a victim's counselling records as a way to challenge the victim's credibility.

Rita Gunn and Candice Minch surveyed 75 women who visited a Winnipeg community health centre for sexual assault counselling in the 1980s in part to assess the social stimuli that would influence a victim's decision to report a sexual assault to police. They determined that the victims were more likely to report assaults to police if they blamed the assailant rather then themselves for the attack. They were also more likely to contact police if the first person they told about the assault was supportive. Moreover, a report was more likely to be made if the victim had no personal history of sexual or physical violence in her past, if the assailant was a stranger, if there were visible injuries as a result of the attack or if the victim resisted vigorously, thus providing evidence of a struggle.[182]

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[179] Julian V. Roberts, Michelle G. Grossman, and Robert J. Gebotys, "Rape Reform in Canada; Public Knowledge and Opinion" (1996) 11 Journal of Family Violence. 133 at 140.
[180] Ibid at 141.
[181] Ibid at 139.

Gunn and Minch also determined that demographic factors also had an impact on the reporting rates. The likelihood of reporting a rape increases with age. As well, women who hold professional occupations are more likely to report the crime. This may be "because professional women are more likely to be believed by police or because they are likely to be better informed about their rights."[183] Finally and perhaps most interestingly, Gunn and Minch found that "the more blame a victim attributes to herself, the less likely she is to report a sexual assault to the police."[184] Thus, it could be argued then that women who have been sexually assaulted believe the cultural scripts regarding sexual assault and judge their victimization against these stereotypes. In other words, the myths about sexual assault have become a cultural discourse that is inherent in women's evaluation of their victimization.

Once a report is made to police, there is no guarantee that charges will be laid. In 2001 in Canada, 58% of the non-sexual assaults reported to police resulted in charges being laid. For sexual assaults, the rate was only 38%. Eight percent of those reporting a sexual assault declined to lay charges (compared to 12% of the non-sexual assault cases) and the police department used its discretion to not pursue charges in 5.7% of the cases (compared to 4.9% of the non-sexual assault cases). The percentage of cases that did not result in charges for sexual assault was at 43%, more than double the number of cases of non-sexual assault at 20.4%.[185] Moreover, the cleared by conviction rate is also relatively poor for sexual assault crimes. Only one-third of the sexual assault cases that "appeared before adult court in 1998-1999 resulted in a conviction."[186] Attempted murder is the only other violent offence in adult court with a "markedly lower conviction rate than sexual assault."[187]

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[182] Rita Gunn and Candace Minch, *Sexual Assault: The Dilemma of Disclosure, the Question of Conviction.* (Winnipeg: University of Manitoba Press, 1988) 51.
[183] Ibid at 37.
[184] Ibid at 39.

Conclusion

It becomes clear then that the policy change aimed in part at increasing women's reporting rates and improving the conviction rates has not proven effective. I argue that the impact of the reforms has been militated by the Supreme Court of Canada decisions on high profile sexual assault cases. The challenges in the Supreme Court have resulted in some positive changes, but there have also been some staggering losses particularly in relation to the release of information about the complainant's past. The legal wrangling over issues like consent and the release of confidential counselling records continues to reinforce the cultural scripts of the sexual assault myths.

The reasons why women do not come forward are varied, but the fact that the majority of women surveyed in 1992 suggested they would report sexual violence to police, if they felt that they were likely to receive justice[188] suggests that the system is failing women.

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[185] Statistics Canada, *Canadian Crime Statistics 2001* (Ottawa: Canadian Centre for Justice Statistics, 2001) at 66.

[186] Canada, Federal-Provincial-Territorial Ministers Responsible for the Status of Women, *Assessing Violence Against Women: A Statistical Profile* (Ottawa, National Library of Canada, 2002) at 32.

[187] Ibid.

[188] Julian V. Roberts, Michelle G. Grossman, and Robert J. Gebotys, "Rape Reform in Canada; Public Knowledge and Opinion" (1996) 11 Journal of Family Violence. 133 at 140.

Legislators, and to a lesser degree jurists, have attempted to challenge the rape myths inherent in the prosecution of sexual assault cases. However, it becomes clear that it is not just the legal discourse that needs to be examined to explore the pervasiveness of these myths in Canadian society, it is also the media discourse that needs to be discussed. This is because for some women surveyed, their fear of negative or news coverage also prevents them from contacting police. The subsequent chapters will determine if those fears are founded.

Chapter 3 – Sexual Assault – Getting The Story Out

"Rape victims are supposed to be helpless. We require assistance and must play a passive role while the good men, the police, the lawyers and judges, punish the one, isolated bad man who committed the crime. Mass media reflect on and report their version of the raped or beaten woman as victim. Rape victims are othered, viewed as less than normal unraped people."[1]

Legislators, and to a lesser degree jurists, have attempted to rewrite society's story of rape by eliminating the myths and stereotypes about sexual assault and changing the way law looks at sexual assault. The reforms to sexual assault legislation were implemented with the goal of increasing the reporting rates for sexual assault crimes and increasing the conviction rates. However, it has become clear, that despite the legislative changes, the reporting and conviction rates remain depressingly low. Women are still not reporting their sexual victimization to police. Changing legal discourse then is only one way to combat the inculcation of cultural scripts about rape in society. The media may also be reinforcing cultural scripts.

This chapter interrogates how the story of sexual assault is told by examining a number of issues. First, it undertakes an "ownership model approach" to studying the media message.[2] In Canada, the ownership model has been in a constant state of flux, with takeovers and mergers consistently changing the landscape of the media. A contextual understanding of the newspaper environment in Canada and more specifically the newspapers under examination is provided. The aim is to determine if newspapers cover the issue of rape differently and if that is potentially influenced by the ownership of the newspaper. There is some preliminary evidence that suggests the *National Post* is more likely to write stories that are anti-women, while the *Globe and Mail* has worked extensively on trying to maintain its female readership.[3] There has been no analysis that examines the media ownership model at the local level in Canada to determine if there are similar biases in the local newspapers, and this is one gap that will be closed in this analysis.

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[1] Jane Doe, *The Story of Jane Doe: A book about rape* (Toronto: Random House, 2003) at 121.

[2] Edward Herman and Noam Chomsky, *Manufacturing Consent: The political economy of the mass media* (New York: Pantheon, 1988) at 14.

Second, this chapter considers the divergent needs of national and local papers and the effect this has on how the story of sexual assault is told. Comparing English-Canada's two national newspapers to the local papers allows for an understanding of the differences between national and local reporting. As will be described later, national papers have different news agendas and need to appeal to a larger and more diverse audience than local papers. Moreover, at a local level, evaluating a Can-West local paper (*Victoria Times Colonist*), a Tor-Star paper *(Toronto Star)* and two independent papers *(Halifax Chronicle Herald* and the *Winnipeg Free Press)* allows for a comparison between large and small market sizes.

Next, I consider the role of the journalist in writing the story of sexual assault. As long-time columnist George Bain points out, journalists are not like postal workers who merely deliver the message.[4] Instead, they must work as professionals constrained by legal and institutional values. Moreover, their reliance on the police for information about sexual assault crimes further shapes the information they make available about sexual assault. My analysis of the organization context, institutional environment and journalistic practices shaping news coverage of sexual violence provides an understanding of the media discourse about sexual violence and how this media discourse works in conjunction with legal discourse to write the cultural script about rape.

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[3] Interview of Bob Cox, former National Editor *Globe and Mail* (29 October 2004) in person at *The Globe and Mail* cafeteria in Toronto.

Canada's Newspaper Environment

The Canadian newspaper environment is complex and ever-changing. Despite concerns about cultural convergence in an era of globalization,[5] Canada's newspapers remain culturally Canadian. According to Christopher Dornan, unlike our film, television and to a lesser degree magazine industries, Canadian newspapers can withstand influence by American culture, because they are parochial in scope and relatively cheap to produce.[6] However, there has been a great deal of debate in Canada regarding the health of the newspaper industry as it competes with television and increasingly the internet as the source of knowledge for news consumers. This is compounded by the fact that large media companies have "all but eradicated the locally owned and independent title".[7]

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[4] George Bain, *Gotcha! How the media distorts the news* (Toronto: Key Porter Books, 1994) at 3.
[5] David Taras, *Power and Betrayal in the Canadian Media* (Peterborough: Broadview Press, 1999) at 61.
[6] Christopher Dornan, "Printed Matter: Canadian Newspapers" in David Taras et. al. eds. *How Canadians Communicate* (Calgary: University of Calgary Press, 2003) 97 at 104.
[7] Ibid at 98.

Media concentration concerns have been ongoing in Canada for the last half century. In 1911, "there were 143 daily newspapers in Canada; there have never been as many since."[8] The closures of newspapers in towns and cities and concerns about decreased levels of competition led to the creation of two high-profile government studies beginning in 1970. The first was a Special Senate Committee on Mass Media called the Davey Report which emphasized the risk of concentrated paper ownership. A major recommendation of the Davey report was the establishment of Press Ownership Review Board that would oversee mergers and acquisitions of newspapers and periodicals. Its guideline was that "all transactions that increase concentration of ownership in the mass media are undesirable and contrary to the public interest – unless shown to be otherwise."[9] The recommendations of the Davey report for the most part were ignored leading Senator Keith Davey to observe in 1990 that the situation described in 1970 was even worse twenty years later, with concentration increasing from 45% in 1970 to 57% in 1990.[10]

The second Royal Commission, the Kent Commission, was held in 1981[11] following the closure of the *Ottawa Journal* and the *Winnipeg Tribute* in 1980, which left Southam and Thomson newspapers holding the monopoly in the two cities. The recommendations that emerged from the Commission included the "divestiture to break up what the commission considered to be monopolies" in Saskatchewan, New Brunswick and Newfoundland.[12] Another recommendation was that Thomson Holdings be forced to sell some of its newspapers. Thomson at the time owned the *Globe and Mail* along with 40 other newspapers in Canada and there were concerns that it held "too much power in too few hands."[13] The newspaper industry reacted negatively to the Kent Commission recommendations and in the end, its recommendations all but disappeared from the public eye.[14]

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[8] Library of Parliament Parliamentary Research Branch, *Newspaper Ownership in Canada: An Overview of the Davey Committee and Kent Commission Studies* by Joseph Jackson (Ottawa: Minister of Public Works and Government Services Canada, 17 December 1999) at 1.
[9] Ibid at 2.
[10] Ibid at 3.
[11] Ibid at 1.

By the late 1990s, convergence became the new watch word for media critics. In his book *Power and Betrayal in the Canadian Media,* David Taras outlines four main types of convergence: "the convergence of technologies, the convergence of corporations, the convergence of information with entertainment and the convergence of cultures."[15] It is the convergence of corporations that appears to concern most media watchers as multi-media conglomerates are exerting control over the media marketplace. This includes the domination of "virtually the full length of the media waterfront from films to TV, from cable to music videos,"[16] as well as corporate control "over the entire media food chain from bottom to top."[17] As a result, the corporation that publishes a book also owns the agency that sells that book, along with the magazine that features excerpts, the movie studio that options it, the

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[12] Walter I. Romanow and Walter C. Soderlund, *Media Canada: An Introductory Analysis* 2nd ed. (Toronto: Copp Clark, 1996) at 104.
[13] Ibid at 105.
[14] Library of Parliament Parliamentary Research Branch, *Newspaper Ownership in Canada: An Overview of the Davey Committee and Kent Commission Studies* by Joseph Jackson (Ottawa: Minister of Public Works and Government Services Canada, 17 December 1999) at 9.
[15] David Taras, *Power and Betrayal in the Canadian Media* (Peterborough: Broadview Press, 1999) at 61.
[16] Ibid at 71.
[17] Ibid.

Cineplex that screens it and the video station that rents it.[18] The outcome, Taras suggests, is the smothering of competition. More importantly perhaps is the concern that citizens do not have "full access to the news and information they need or whether wilful owners and corporate imperatives are skewing the message – bending the news and journalism to fit their needs."[19]

Between 1997 and 2001, media convergence had a significant impact on landscape of the Canadian media. Hollinger Inc. under the direction of Conrad Black, made a number of business decisions that allowed Black to emerge "as a dominant newspaper proprietor in the country."[20] Hollinger Inc. took control of Southam, a chain of broadsheet newspapers that serviced markets from Vancouver to Montreal,[21] and by the time the deal was finalized, Hollinger owned sixty of Canada's 105 daily newspapers[22] including all of the newspapers in Saskatchewan, Newfoundland, and Prince Edward Island.[23] In 1998, Conrad Black moved to increase the size of his media empire and create Canada's second daily national newspaper – the *National Post.*

It was not just Black's acquisitions that caused concerns among media-watchers, but the way he did business as well. Taras suggests that Black is a political warrior with staunch conservative views on most policy issues.[24] Those who worked for Black were expected to agree with those views, or risk being unemployed.[25] Black also changed the journalistic paradigm in Canada, borrowing heavily from the British tabloid tradition. The *Post* began printing columnists' opinion pieces on the front-page instead of in a special op-ed section and it also aggressively mingled opinion with its news, ignoring the rules of objective journalism. In August of 2000, the owner of CanWest Global, Israel Asper, acquired Black's Canadian newspaper empire in a 3.5 billion dollar deal.[26] Under that deal, Asper took the helm of a media empire that included 13 of Canada's "largest dailies and 136 smaller papers" but Black was to retain a 50% stake in the paper.[27] Asper also owned Global television network, a national network of 15 television stations.[28] Media watchers may have breathed a sigh of relief with the CanWest acquisition; however, a national editorial policy decision implemented by Asper once again raised fears that the number of critical voices in Canadian media is dwindling.

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[18] Ibid.
[19] Ibid at 80.
[20] Christopher Dornan, "Printed Matter: Canadian Newspapers" in David Taras et. al. eds. *How Canadians Communicate* (Calgary: University of Calgary Press, 2003) 97 at 100.
[21] Ibid.
[22] Mary Vipond, *The Mass Media in Canada* 3rd ed. (Toronto: Lorimer, 2000) at 63.
[23] Maude Barlow and James Winter "The Horse's Mouth." (1997) November Canadian Forum. 21 at 21.

In December of 2001, CanWest's new corporate policy demanded that all Southam newspapers carry national editorials written out of its head office in Winnipeg. This decision was viewed with some alarm amongst journalists, as "it signalled a departure from the traditional Southam practice, in which local editorial boards were generally run independently from corporate head officer and were free to take editorial stands as they chose."[29] For media watchers concerned about the issue of convergence, this signalled a potential skewing of the message – a central control over the individual newspapers, so that they speak with one voice.

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[24] David Taras, *Power and Betrayal in the Canadian Media* (Peterborough: Broadview, 1999) at 213.
[25] Maude Barlow and James Winter "The Horse's Mouth." (1997) November Canadian Forum. 21 at 21.
[26] David Taras and Ruth Klinkhammer "Canada" in Leena d'Haenens and Frieda Saeys eds. *Western Broadcasting at the Dawn of the 21st Century* (New York: Mouton de Gruyter, 2001) at 356.
[27] Ibid at 356.
[28] Ibid at 403.

Prominent journalists who publicly disagreed with the Asper decision found themselves unemployed. As the discussion regarding the controversial editorial policy continued, Israel Asper insisted that it was "a means for the company to put forward a national viewpoint on national issues, nothing more, and that it certainly did not mean the company would brook no disagreement in the pages of its papers.[30] Despite this assertion, some journalists feel that they no longer can submit news copy that reflects the truth as they perceive it, but rather "in accord with how their supervisors in a distant head office would prefer things to be".[31] For some media watchers, the Asper acquisition provided little respite from concerns that the editorial position may be lacking in diversity.

In the same year, Bell Canada Enterprises (BCE) acquired CTV – Canada's largest television empire with 25 television stations and an impressive stock in cable television networks.[32] In September 2000, BCE started the wheels rolling toward the merger of CTV with Canada's other national newspaper, the *Globe and Mail*.[33] The merger deals of BCE and its competitor CanWest Global signify a move towards the

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[29] Christopher Dornan, "Printed Matter: Canadian Newspapers" in David Taras et. al. eds. *How Canadians Communicate* (Calgary: University of Calgary Press, 2003) 97 at 110.
[30] Ibid at 115.
[31] Ibid at 116.
[32] David Taras and Ruth Klinkhammer "Canada" in Leena d'Haenens and Frieda Saeys eds. *Western Broadcasting at the Dawn of the 21st Century* (New York: Mouton de Gruyter, 2001) at 403.
[33] Ibid at 356.

AOL-Time Warner model of multi-platform media groups that include newspapers, television, cable television services, and internet holdings.[34] Again, there are concerns about the concentration of ownership and convergence of multi-media organizations diminishing the number of voices in Canada's public square.

The BCE merger is just one of many changes in ownership and editorial direction in the history of Canada's other national newspaper. The *Globe and Mail* has been around considerably longer than the *National Post* and it has gone through many different incarnations and affiliations.[35] It was founded in 1844, predating Canada's confederation and in 1980, it began publishing its national edition.[36] According to Taras, the *Globe* has long been the "voice of the Canadian establishment" and its "positions are reliably conservative".[37] Its viewpoint has been pro-business with a moderate view regarding social programs.

In the early 1990's, the *Globe*, facing falling circulation numbers and dwindling advertising revenues, underwent what John Miller calls a revolution in newspaper journalism.[38] Roy Megarry took over as publisher of the prestigious newspaper and cleaned house, firing the long time editor in chief and the managing editor and hiring William Thorsell as the new editor. With Megarry and Thorsell's vision, the *Globe*

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[34] Ibid.

[35] See David Hayes *Power and Influence* for a comprehensive overview of the history of the *Globe and Mail.*

[36] David Taras, *The Newsmakers: The Media's Influence on Canadian Politics* (Scarborough: Nelson Canada, 1990) at 89.

[37] David Taras, *Power and Betrayal in Canadian Media* (Peterborough: Broadview Press, 1999) at 217.

[38] John Miller, *Yesterday's News: Why Canada's Daily Newspapers are Failing Us.* (Halifax: Fernwood Publishing, 1998)at 233.

"began to show the unmistakeable evidence of being edited with flair, with intelligence, and with a purpose beyond that of simply providing information."[39]

With the advent of the publication of the *Post* in October, 1998, competition began as the two national papers competed for readership and advertising dollars. When the *Post* first published in October of 1998, it tried to build its circulation numbers as quickly as possible. As a result, its managers offered free or discounted copies of the paper and "conventional ad rates were slashed to win the business of loyal *Globe* advertisers. Top journalists were recruited – many of them from the *Globe* – with generous salaries and perks."[40]

In response, the *Globe* invested "enormous amounts of money"[41] in a battle to "kill the upstart".[42] It also again, changed "its approach to news in hopes of matching the *Post's* irreverent energy. Suddenly, the Good Grey *Globe* featured more colour, better photographs and more sports coverage."[43] With the arrival of publisher Phillip Crawley in 1998 and the subsequent hiring of Richard Addis as editor in 1999, the *Globe* moved into a "new era in publishing."[44] The costs of the newspaper war had a toll as the *Post* continued to lose money and in 2001, CanWest slashed "several sections and more than 100 jobs from the *Post* in hopes of cutting financial losses."[45] In the year 2002, the *Globe and Mail* clearly had won the circulation war, reigning as

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[39] Ibid at 234.
[40] Steve Maich, "Troubles at the *Globe*" *Maclean's* (01 November 2004) 36.
[41] Ibid.
[42] Ibid.
[43] Ibid.
[44] E-mail correspondence with Bob Cox, former National Editor *Globe and Mail* (07 July 2005).
[45] Steve Maich, "Troubles at the *Globe*" *Maclean's* (01 November 2004) 36.

Canada's second largest newspaper behind the *Toronto Star* with a weekly circulation rate of 2.08 million readers. The *Post* meanwhile lagged behind in fifth place with a weekly circulation rate of 1.5 million readers.

As indicated, changes to media ownership have had financial implications and resulted in "the closure of news bureaus, layoffs and a greater emphasis on regional and national news."[46] Can-West Global has had to struggle to eliminate costs by instituting hiring freezes and amalgamating resources within its news operations in its newspapers.[47] As well as predicted by Taras, the convergence model in Canada has already had an impact on free speech. Both CanWest and BCE, the owner of the *Globe,* have been criticized for their restrictions on journalistic freedoms. Winseck suggests that because of CanWest's and BCE's institutional cultures, "it is unlikely that journalists in either organization will be either able or all-too-willing to engage in the kind of autonomous and critical journalism that CanWest and BCE insist is still possible."[48]

Overall, the Canadian newspaper industry appears to be in some trouble, as people increasingly turn to television or the internet for their news information. This does not necessarily mean that the media consumer is getting the information from different sources, particularly in an era of media convergence when one parent company owns the newspapers, television stations and internet sites. What is does mean, however, is the medium from which consumers gather their information is changing. Indeed, circulation rates for Canadian newspapers have been dropping since their peak in 1989. However, Christopher Dornan suggests there is still reason to be optimistic about the newspaper industry as "more people read newspapers regularly than view Canadian films, read Canadian books, patronize the Canadian arts, purchase Canadian recordings or watch Canadian television".[49] In 2001, Canada's 104 daily newspapers sold an average combined total of over 5 million copies a day.[50] According to the Canadian Newspaper Association, 57% of Canadians over eighteen read a newspaper during the week while 64% read one on the weekend.[51] Newspapers remain important as they continue to hold a place in providing information to its consumers.

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[46] Dwayne Winseck, "Netscapes of power: convergence, consolidation and power in the Canadian mediascape"(2002) 24 Media, Culture and Society. 795 at 798.
[47] Ibid at 799.
[48] Ibid at 813.

Understanding the history surrounding Canadians concerns about competition, the potential impact that convergence has on the number of voices available to report on events and the pessimism about the future of Canada's newspapers provides a contextual background for analysing how English Canadian newspapers deal with sexual assault. If the outcome of convergence is lay-offs and budget cuts, this shapes how much time and energy a reporter can spend working on an issue. If there is more corporate control and a smothering of competition from independent media outlets, there can be a concurrent smothering of dissenting voices or opinions that do not support the ideological perspective of the media owners. Indeed, as I have already pointed out, there is considerable concern about the control over the editorial content in CanWest newspaper first under the direction of Conrad Black and later under the helm of the Asper family.

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[49] Christopher Dornan, "Printed Matter: Canadian Newspapers" in David Taras et. al. eds. *How Canadians Communicate* (Calgary: University of Calgary Press, 2003) 97 at 102.
[50] Ibid at 101.
[51] Ibid at 103.

Canada's National Newspapers

Exploring how English Canada's two national newspapers depict sexual assault is important because both papers are in the "inner ring" in Canadian media in terms of their influence and scope.[52] While Taras's analysis of the most influential media organizations in Canada predated the publication of the *National Post*, one could argue that the criteria used in 1990 (which included scope, national audience, resources, personnel size, and budget) could be applied in 2004 to both the *Globe* and the *Post*.[53] Both the *Post* and the *Globe* have a national edition that is printed across Canada and both appear in major cities and communities across the country.[54]

Taras wrote in 1990 that the *Globe and Mail* influenced what questions were asked in Question Period and other news organizations used the *Globe* as a "reference point for their own news line-ups."[55] The same could be said ten years later about the *National Post*. Writing in 2001, Taras suggested that the *Post* has become "both a catalyst and a cheerleader for emergence of the Canadian Alliance Party, an intervention into national life that is almost unprecedented for a newspaper in the post-war era."[56] Thus, the *Post* can be seen as playing a large role in setting the political agenda and potentially influencing political policy in its coverage of news events.

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[52] David Taras, *The Newsmakers: The Media's Influence on Canadian Politics* (Scarborough: Nelson Canada, 1990) at 87.
[53] Ibid.
[54] Ibid at 88.
[55] Ibid.

As has already been discussed, the arrival of the *National Post* in 1998 spurred competition between the *Globe* and the *Post*. Taras says that the "competition between the two national papers gave Canadians great choice and ultimately made the *Globe* a better newspaper. The *Globe* was forced to recruit a new generation of writers and lost some of its stodgy conservatism."[57] Bob Cox, the national news editor for the *Globe* in 2002 agrees:

> You'd be a fool to argue that the *National Post* hasn't changed the way the *Globe* covers things, but the question is how. Basically, we all read the other newspapers so we look to them to see whether they're covering a story that's worth covering that you didn't know about—whether you missed something, whether you should catch up to something, whether you should ignore something. I mean you don't necessarily always act in reaction to them. In fact most often we don't act in reaction to the *National Post* or to any other newspaper for that matter, but we use it for a source of information for what you might cover yourself eventually. [58]

This suggests then that not only do national newspapers potentially set the agenda for policy makers, they also potentially influence what is covered by other media outlets, including the competition.

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[56] David Taras, *Power and Betrayal in the Canadian Media* (Peterborough: Broadview Press, 2001) at 232.
[57] Ibid.
[58] Interview of Bob Cox, former National Editor *Globe and Mail* (29 October 2004) in person at *The Globe and Mail* cafeteria in Toronto.

There is some evidence that the increased competition has meant that the *Globe* has responded by working on maintaining its female readership. The *Post*, particularly under Black, was often viewed as akin to the "so-called 'lads' magazines, which are unabashedly politically incorrect, gender-insensitive and inordinately interested in female celebrities with augmented breasts. From the outset, its editorial pages have expressed hostility towards orthodox feminism."[59] By contrast, Cox suggests the *Globe* may be more balanced in its approach: "We try to be female friendly but only because we know that a great proportion of our readers is female, just like we try to serve the interests of our male readers."[60]

Four Of Canada's Local Newspapers

Understanding how sexual assault is depicted in the everyday accounts of Canada's local newspapers is important. In Canada, comparing how different local papers talk about sexual violence has never been done and it is a serious gap in our understanding of how sexual assault crimes are depicted. If policy makers use the local newspapers in part to set the agenda on policy issues, then the media discourse about sexual violence is vital. Additionally, local newspapers play a major role in the maintenance of cultural scripts. How they discuss sexual assault crimes influence their audiences' view of sexual victimization. Four local newspapers were selected for this study: the *Victoria Times Colonist*, the *Winnipeg Free Press*, the *Toronto Star* and the *Halifax*

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[59] Kevin Steele, "Don't believe anything you read: the national newspapers are at war and accuracy and good taste are among the first casualties" *BC Report* 10:24 (11 October 1999) at 40.
[60] Interview of Bob Cox, former National Editor *Globe and Mail* (29 October 2004) in person at *The Globe and Mail* cafeteria in Toronto.

Chronicle Herald. All of these papers are morning broadsheets that publish seven-days a week.

The *Victoria Times Colonist* is one of Western Canada's oldest daily newspaper and like the *Globe and Mail,* its first edition predates Canada's confederation. Originally, the *Times Colonist* was two newspapers—*The British Colonist*, which began publishing in 1858 and the *Victoria Daily Times*, which published in 1884. The two newspapers, owned by the Thomson chain,[61] merged in 1980.[62] The *Times-Colonist* became part of the CanWest Global group in 1998[63] and in 2002, it had a weekly circulation of over 532-thousand.[64] The *Victoria Times Colonist* was included in this analysis because it is a CanWest newspaper and it is publishes out of the west-coast in Victoria, BC's capital, with a population of over 300-thousand.[65]

The *Winnipeg Free Press* is another one of Western Canada's oldest newspapers, as it began publishing in 1878. In November of 2001, the Thomson newspaper chain sold both the *Free Press* and the *Brandon Sun* to Canadian Newspapers which took over the responsibility of publishing the *Free Press*. The *Free Press* is an anomaly in

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[61] Library of Parliament Parliamentary Research Branch, *Newspaper Ownership in Canada: An Overview of the Davey Committee and Kent Commission Studies* by Joseph Jackson (Ottawa: Minister of Public Works and Government Services Canada, 17 December 1999) at 10.

[62] *Victoria Times Colonist,* "About Us" online: *Victoria Times Colonist* www.canada.com/victoria/timescolonist/info/aboutus.html.

[63] Library of Parliament Parliamentary Research Branch, *Newspaper Ownership in Canada: An Overview of the Davey Committee and Kent Commission Studies* by Joseph Jackson (Ottawa: Minister of Public Works and Government Services Canada, 17 December 1999) at 17.

[64] Canadian Newspaper Association "2002 Circulation Data" online: Canadian Newspaper Association www.can-acj.ca/newspapers/facts/circulation.

[65] Statistics Canada, "2001 Community Profile – Victoria" online: Statistics Canada <http://www12.statcan.ca/english/profil01/Details/details1.cfm?SEARCH=BEGINS&ID=1298&PSGC=59&SGC=59935&DataType=1&LANG=E&Province=59&PlaceName=victoria&CMA=&CSDNAME=Victoria&A=&TypeNameE=Census%20Metropolitan%20Area&Prov=>

Canada in that it is one of the last "truly independent urban title, unaffiliated with any broadcaster, cable company, telecommunication giant or Internet provider".[66] What is fascinating about the *Free Press* is that it publishes out of Winnipeg, the city in which the Asper family and the CanWest conglomerate are located. The *Free Press* has for the most part operated independently from that corporate giant.[67] Its status as an independent in 2002 is one of the reasons that the *Free Press* was included in this analysis. It is also significant in that it services Manitoba's capital city with a population of over 671-thousand people[68] and had a weekly total circulation was over 889-thousand in 2002.[69]

Canada's largest daily newspaper is the *Toronto Star*, a member of the Torstar corporation, publishing as a broadsheet seven days a week, with a weekly total circulation in 2002 of 3.3 million, more than the *Globe* or the *Post.* [70] Torstar serves as an example of Taras's corporate convergence model, as it has holdings in printing and publishing, producing community newspapers, educational textbooks and the popular Harlequin romance novels.[71] The *Toronto Star* began publishing in 1892 and it is now Canada's largest daily newspaper, published in Canada's largest city with a population of its metro area in 2001 of 4.6 million people.[72] No media study would be complete without the inclusion of this important newspaper.

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[66] Christopher Dornan, "Printed Matter: Canadian Newspapers" in David Taras et. al. eds. *How Canadians Communicate* (Calgary: University of Calgary Press, 2003) 97 at 119.
[67] Ibid.
[68] Statistics Canada, "2001 Community Profile – Victoria" online: Statistics Canada http://www12.statcan.ca/english/profil01/Details/details1.cfm?SEARCH=BEGINS&ID=993&PSGC=46&SGC=46602&DataType=1&LANG=E&Province=46&PlaceName=Winnipeg&CMA=&CSDNAME=Winnipeg&A=&TypeNameE=Census%20Metropolitan%20Area&Prov= .
[69] Canadian Newspaper Association "2002Circulation Data" online: Canadian Newspaper Association www.can-acj.ca/newspapers/facts/circulation.
[70] Ibid.
[71] Walter I. Romanow and Walter C. Soderlund, *Media Canada: An Introductory Analysis* 2nd ed. (Toronto: Copp Clark, 1996) at 284.

Finally, the *Halifax Chronicle Herald* began publication in 1875. Like the *Free Press,* the *Chronicle Herald* is also an independent newspaper. Owned by the Dennis family of Halifax, it is a morning broadsheet[73] that in 2002 had a weekly total circulation of over 601-thousand.[74] Its independence and the fact that it is located in the largest city and the capital of Nova Scotia with a population of over 359,000[75] on the east coast made it an important newspaper to include in this analysis.

The Journalists – How They Get The Story Out

Newspapers are not machines that churn out news like a factory churns out widgets. Journalists and editors shape and influence the news agenda, thus it is important to talk to them about their personal backgrounds and the institutions in which they work to determine how they cover the issue of sexual assault. I met with eight reporters and three editors from five newspapers over a two-week period in October and November of 2004, in order to determine how they cover sexual assault crimes. I was interested in how the reporters view sexual assault, where they get their information about the crime and the institutional factors that shape the reporting of the crime. All newspapers except the *National Post* allowed me to interview them about this topic.

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[72] Statistics Canada, "2001 Community Profile – Toronto" online: Statistics Canada < http://www12.statcan.ca/english/profil01/Details/details1pop.cfm?SEARCH=BEGINS&PSGC=35&SGC=35535&A=&LANG=E&Province=All&PlaceName=Toronto%20&CSDNAME=Toronto&CMA=&SEARCH=BEGINS&DataType=1&TypeNameE=Census%20Metropolitan%20Area&ID=853>.

[73] *Halifax Chronicle Herald* "About Us" online: *Halifax Chronicle Herald* www.herald.ns.ca/aboutus/aboutus.html.

[74] Canadian Newspaper Association "2001 Circulation Data" online: Canadian Newspaper Association www.can-acj.ca/newspapers/facts/circulation.

[75] Statistics Canada, "2001 Community Profile – Victoria" online: Statistics Canada http://www12.statcan.ca/english/profil01/Details/details1.cfm?SEARCH=BEGINS&ID=355&PSGC=12&SGC=12205&DataType=1&LANG=E&Province=12&PlaceName=Halifax&CMA=&CSDNAME=Halifax&A=&TypeNameE=Census%20Metropolitan%20Area&Prov= .

Three of the reporters were women and one of the editors was a woman. The reporters were Dan Arsenault,[76] Patricia Brooks,[77] Ian Fairclough[78] and Sherri Borden Colly with the *Halifax Chronicle Herald*, Nick Pron at the *Toronto Star*, Bruce Owen with the *Winnipeg Free Press*, and Lindsay Kines[79] and Jody Paterson[80] from the *Victoria Times Colonist*. The editors were Bob Cox, the national editor with the *Globe and Mail* in the period under study,[81] Denise Helm, the day news editor at the *Victoria Times Colonist* and Steve Bruce, the night assignment editor at the *Halifax Chronicle Herald.*[82]

All the reporters and editors interviewed are well educated. All have some post-secondary education, many with both a university degree and a technical school diploma in journalism. One has taken graduate level courses for an MA in social psychology.[83] Their ages at the time of interview ranged from their late 20s to their early 50s. Most have significant experience working in journalism with seven to 25 years on the job. Those who cover and edit and assign stories on sexual assault crimes are well-educated with an extensive background in journalism.

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[76] Dan Arsenault became the police reporter at the *Chronicle Herald* in 2004.

[77] Patricia Brooks was the police reporter at the *Chronicle Herald* in 2002, but now is a staff reporter.

[78] Ian Fairclough is the Valley Bureau reporter for the *Chronicle Herald* and works in the Annapolis Valley office.

[79] Although Lindsay Kines is currently the legislative reporter for the *Times Colonist*, he has had extensive experience covering sexual assault crimes while working as a reporter at the *Vancouver Sun* and thus, his insights were invaluable.

[80] I interviewed Jody Paterson who was a police reporter with the *Victoria Times Colonist* for the year in which the study was conducted. However, Jody has since quit journalism and now works as an executive director of Prostitutes Empowerment Education and Resource Society.

[81] Bob Cox was with *Globe and Mail* until accepting the position of editor with the *Winnipeg Free Press* in 2005.

[82] The *Chronicle Herald* graciously allowed me to spend the afternoon in the newsroom and permitted me to sit in on their afternoon meeting on October 25, 2004 to discuss the lay-out of the front page.

[83] Interview of Nick Pron, Police Reporter, *Toronto Star* (05 November 2004), telephone interview.

In all the newsrooms, there appears to be an equal mix of male to female reporters, but all the reporters interviewed agree that in management positions, there are more male editors than female. Moreover, Borden Colley was the only visible minority interviewed, and while newsrooms may be taking steps to become more multicultural, according to Pron, the editorial positions are still held for the most part by white males.[84] The women reporters were asked if they considered whether their sex made a difference in how the worked as a reporter and more specifically how they covered sexual assault. Two of the women interviewed agreed that they thought that being a woman did make a difference in how they did their job. As Denise Helm puts it:

> Men and women have different ways of approaching the world and how they organize their lives, so I think that reporting styles reflect that. I think the stories that are most successful are the ones with the human element, but I like to think that there's (this is a gross generalization) but I think women tend to pay attention to the social and the relationship tending. They bring different aspects to the story.[85]

Borden Colly says she likes to think "I bring a sensitivity to a story."[86] However, Brooks says she does not feel that her sex meant she approached a story differently. She says that while she does get upset when police do not release details about sexual assault, she is not sure her reaction is any different than the men who work in the newsroom who have teenaged daughters.[87] Helm also says that she feels that the difference in approaches may be a generational thing, with younger reporters, both male and female, more likely to be sensitive in approaching certain stories.[88]

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[84] Interview of Nick Pron, Police Reporter, *Toronto Star* (05 November 2004), telephone interview.
[85] Interview of Denise Helm, Day News Editor, *Victoria Times Colonist* (02 November 2004), in person in the newsroom of the *Victoria Times Colonist.*
[86] Interview of Sherri Borden Colley, Court Reporter, *Halifax Chronicle Herald* (25 October 2004) in person in the newsroom of the *Halifax Chronicle Herald.*

The Relationship Between Police And Journalists

Sexual assault cases are not usually complaints that go out on the police scanners monitored by police journalists. As a result, the reporters must rely on the police to disclose the initial reports about rape. It is for this reason that it is important to examine the relationship between the police and journalists in this study. To do this, I conducted interviews with police departments in the cities in which the newspapers are located. Through these interviews it become clear that there are different levels of involvement between police and the media. Police departments in Halifax, Winnipeg and in Toronto maintained a regular contact with the newspaper newsrooms and provided daily media updates including information about ongoing sexual assault investigations. Victoria's police department provided weekly updates.

In Toronto in 2002, the Toronto police sent out over 1600 news releases dealing with a variety of crimes. Of them, 214 were sexual assault crimes. By comparison the rate of sexual assaults reported to police in the CMA of Toronto[89] was over 2700,[90] suggesting that only a small percentage of the crimes reported are released to the media. According to Mark Pugash, the Director of Corporate Communications, the police department can send out as many as 14 news releases in one day, with the Toronto Police Service operating as one of "the busiest press offices in the province, possibly further."[91] The primary consideration for releasing information about rape is public safety. Pugash says Torontonians "need to have an accurate understanding of what is going on so they can take whatever steps they feel are appropriate to govern the way in which they live their lives."[92]

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[87] Interview of Patricia Brooks, Staff Reporter, *Halifax Chronicle Herald* (25 October 2004) in person in the newsroom of the *Halifax Chronicle Herald.*

[88] Interview of Denise Helm, Day News Editor, *Victoria Times Colonist* (02 November 2004), in person in the newsroom of the *Victoria Times Colonist.*

[89] To determine the actual number of sexual assaults reported to police, I utilized the rate per 100,000 population provided in the Juristat publication and then calculated the rate per actual population size based on the CMA population statistics provided.

In Winnipeg, the Police Service distributed 44 news releases that related to sexual assault in 2002.[93] Again, there were over 700 sexual assaults reported to police in the Winnipeg Census Metropolitan area in 2002.[94] The Winnipeg Police Service also sees the importance of releasing information about crime, and in particular sexual assault crimes, when it is a matter of public safety. Boyd Campbell, a Staff Sergeant with Winnipeg in the Criminal Investigations Bureau, says that every morning police investigators will meet to talk about the major incidents that occurred in a 24-hour period. It is at that point that the service will determine what is going to be made public. According to Campbell, they will release information if someone is "targeting

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[90] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, no. 6) at 4.

[91] Interview of Mark Pugash, Director of Corporate Communications, Toronto Police Service (28 October 2004) in person in Toronto.

[92] Ibid.

[93] The news releases were given to me by Sergeant Shelly Glover, the Public Information Officer for the Winnipeg Police Service's Public Affairs Unit on 03 June 2004. It is not known how many news releases in total were sent out in 2002.

[94] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, no. 6) at 4.

specific area or a specific group, or the circumstances were such that we felt that there was a need to know."[95] A second consideration, according to Campbell, is from an investigation perspective. The Winnipeg police service will release information when they need assistance from the public in solving crime.[96]

In examining the news releases from police and comparing it to what was included in the newspapers in 2002, it becomes clear that not all the news releases make it into the paper. Indeed, according to Sgt. Glover, only about one-third of the news releases on sexual assault resulted in a news story in the *Winnipeg Free Press*. As Sgt. Glover puts it, "I release a number of stories to the media but they don't always print what is released. In fact, they rarely print everything we provide to them."[97]

The Victoria Police Department is slightly less hands-on with the media. Constable Rick Anthony, the Downtown Resource Officer for Victoria, is responsible for providing the media with information but information is sent out only once a week.[98] Every Monday morning, Anthony complies a list of the "week's hot calls;"[99] however, he is also available to the media by pager should something occur that requires an immediate response. As Anthony points out, "we work with the media, but not for them….We put the information out there as concise as we can but we won't compromise the integrity of the investigation."[100] Again, like Winnipeg and Toronto, Victoria's number one consideration when releasing information to the public is public safety. Clark Russell, a Sergeant in Investigative Services with Victoria Police says that the department uses the media "to try and solve crimes and we also use the media to warn the public about potential threats."[101] In 2002, there were over 230 sexual assaults reported to the Victoria Police.[102]

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[95] Interview of Boyd Campbell, Staff Sergeant, Winnipeg Police Service (03 June 2004) in person in Winnipeg.
[96] Ibid.
[97] E-mail from Shelly Glover, Patrol Sergeant, Winnipeg Police Service (19 June 2005).
[98] Victoria did not have a centralized unit for archiving news releases and as such could not share the information sent out to the media for 2002.
[99] Interview of Rick Anthony, Constable, Victoria Police Department (02 November 2004) in person in Victoria.

Policing in Halifax is more complicated to understand because its department is not just responsible for policing the city of Halifax. In 1996, the town of Bedford and the cities of Dartmouth and Halifax amalgamated, meaning that their three police departments also amalgamated. Under the amalgamation, the three departments were "expected to deliver police services to the residents of the three municipalities and, at the same time, successfully integrate into a Halifax Regional Police Department."[103] Halifax did not have a specific section that dealt with sexual assault crimes until 2003 and there were only three media releases relating to sexual assault crimes sent out to the media in 2002, while there were over 370 sexual assault crimes reported.[104] According to Barb Saunders, a Detective in the Integrated Major Crime Unit in

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[100] Ibid.

[101] Interview of Clark Russell, Sergeant, Investigative Service, Victoria Police Department (02 November 2004) in person in Victoria.

[102] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, no. 6) at 4.

[103] James C. McDavid "The impacts of amalgamation on police services in the Halifax Regional Municipality" 45:4 Canadian Public Administration. 539 at 539.

[104] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, no. 6) at 4.

Halifax, the police department will release information to the media when it is an issue of public safety.[105]

The relationship between the police and journalists is not straightforward. Nick Pron says that in the 25 years he has worked at the *Star* he has had to work on getting the trust of the police because of their cynical nature:

> I mean, with me what they would do at first is plant stories on me. We'd go for beers and they'd tell me stuff off the record that was wrong and then wait to see if it would show up in the paper somewhere. Once you get known and out there, this is a pretty small policing community. I means it takes a while for them to trust you, but after a while when you're on the police beat and a regular, they do. They know that if you write something negative or wrong, you're going to be around the next week to face the music. And they will let you know what you've done wrong. You have to get their trust. You have to go drinking for them, get to know them, see a lot of things before you start getting cold calls (tips).[106]

Bruce Owen at the *Free Press* says that sometimes being an experienced police reporter can work against you as well: "Because you have an institutional knowledge of what's going on, sometimes you can ask questions of people who don't want to be asked questions."[107] The experiences of Pron and Owen reflect a culture based on what Skidmore contends is "male camaraderie and bonding"[108] inherent in both journalism and in policing. The reporters are forced to prove themselves before they are invited into the male-dominated world of the police. It would be interesting to see if the experiences of female crime reporters would be different in Toronto or Winnipeg.

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[105] Interview of Barb Saunders, Detective, Integrated Major Crime Unit, Halifax Regional Municipality Police (26 October 2004) in person in Halifax.
[106] Interview of Nick Pron, Police Reporter, *Toronto Star* (03 November 2004) by telephone.
[107] Interview of Bruce Owen, Police Reporter, *Winnipeg Free Press* (04 November 2004), in person in Winnipeg.
[108] Paula Skidmore "Gender and the agenda: News reporting of child sexual abuse" in Cynthia Carter, Gill Branston and Stuart Allan eds., *News, Gender and Power* (London: Routledge, 1998) 207 at 207.

Some of the reporters I talked to discussed the need for distance between the journalists and the police. As Owen explained, reporters need to make it clear that they are not the police or the police union's mouthpiece. This is something with which Jody Paterson agrees; however, she says it is sometimes difficult because "you need them and yet you have to be careful not to become one of them. You can't be the kind of cop reporter that whatever they tell you, you take it as gospel."[109] Still other reporters see the relationship between police and the media as positive. Dan Arsenault with the *Chronicle Herald* considers his interactions with the police and RCMP in Halifax as a good working relationship:

> You know I understand why they don't tell me everything and I think they understand when I point out that they're not telling me everything. They have different bosses than me. There's times when they don't tell me everything and I think they're trying to protect their investigation. But if I find something else out or find something out that contradicts what the police say then it's my job to put that in a story and I've never had anybody mad at me for doing that...I've never held out any anger to police when they're not as forthright as they could be, but I understand the situation. All in all it's a pretty decent relationship, I'll say.[110]

In sum, different reporters have different relationships with police and that there is some ambiguity in the role of police in journalism.

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[109] Interview of Jody Paterson, former police reporter, *Victoria Times Colonist* (01 November 2004) in person in Victoria.

[110] Interview of Dan Arsenault, police reporter, *Halifax Chronicle Herald* (25 October 2004) in person in Halifax.

The reporters interviewed agreed that sexual assault crimes are not as easy to cover as other major crimes. Detective Saunders in Halifax concurs saying that sexual assault crimes are different from other crimes in that women often come into the police department to report rather than having the department come into their home. Sexual assaults are reported in "a more quiet way" with "no big crime scene."[111] Thus, the police reporter listening to the police scanner for crime stories is not always privy to sexual assault cases as they are reported to police. For the most part, reporters must rely on police for details regarding sexual assaults.

There are additional impediments to following the sexual assault story. The first is the fact that the victim is often not named. Ian Fairclough, who works out of the Village bureau office for the *Chronicle Herald*, says that the police will tell them the basics about a sexual assault crime but the coverage is relatively brief.[112] Arsenault agrees that the reporters are "often handcuffed by law." Not being able to identify the victim "takes away so much of the story. It's almost like you up writing a story that there was a sexual assault, but we can't tell you anything else."[113]

Denise Helm with the *Times Colonist* agrees that coverage of sexual assault is deterred by police procedures because "the police do hold and control a lot of information and they're not compelled to give us certain information." But Helm says her paper "will leave our name and number with police" in case the victim wants to provide more information.[114] Patty Brooks, who writes for the *Chronicle Herald*, says the police may hold onto information, but in some cases, the newspaper may not talk about sexual assault because of complaints from readers: "When you have a case of a boy who's being abused, molested we get terrible letters to the editor … 'don't be so descriptive'. 'I don't need to read that when I'm eating my morning breakfast'. I think a lot of our readers don't want to know."[115]

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[111] Interview of Barb Saunders, Detective, Integrated Major Crime Unit, Halifax Regional Municipality Police (26 October 2004) in person in Halifax.

[112] Interview of Ian Fairclough, reporter in the Village Bureau, *Halifax Chronicle Herald* (26 October 2004) by telephone.

[113] Interview of Dan Arsenault, former police reporter, *Halifax Chronicle Herald* (25 October 2004) in person in Halifax.

So it becomes clear that sexual assault crimes at a local level are more difficult to report than other crimes for a number of reasons. First, the police control the release of information. Second, if the information is released, there is not a great deal of detail and thus coverage remains largely episodic in dimension. Finally, if the information is released, the newspapers have to be careful not to turn away readers by providing too much detail.

Media Discourse About Crime

Crime is the mainstay of the news. According to Ray Surrette, crime news averages about 7 percent of the total news coverage in American newspapers and crime or justice news composes one of the top five subject categories.[116] Steve Chermak estimates that crime stories make up as much as 11 percent of all news stories in

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[114] Interview of Denise Helm, Day News Editor, *Victoria Times Colonist* (02 November 2004) in person in Victoria.

[115] Interview of Patricia Brooks, former police reporter, *Halifax Chronicle Herald* (25 October 2004) in person in Halifax.

[116] Ray Surette *Media, Crime and Criminal Justice* 2nd Edition (Belmont: Wadsworth Publishing, 1998) at 67.

American newspapers and television. Chermak suggests that the amount of "daily crime news that is 'newsworthy,' when compared to other topics, is large."[117] In their Canadian analysis of news media, Ericson, Baranek and Chan contend the police beat has always been a main source for news.[118] Indeed, a cursory glance of the daily newspaper in Canada indicates that crime news is considered an important aspect in our media as well. The news media can rely on crime stories to fill newspaper pages because there is always a steady supply of new crimes daily and crime stories can be recycled as they move through the justice system.[119]

One of the reasons why it is a mainstay of the daily newspaper may be that crime news is relatively inexpensive to report. In recent years, police departments have become "much more involved with the news media,"[120] with many departments employing full-time communications staff who regularly send out news releases regarding crime stories.[121] Those news releases are easily transcribed into news stories that are then broadcast on television and radio and appear in the morning newspaper, requiring little investigative work or interviewing time. This has the effect of controlling the news and news reporters.[122] In other words, the police departments

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[117] Steve Chermak, "Crime in News Media: A Refined Understanding of How Crimes Become News" in Gregg Barak ed., *Media, Process, and the Social Construction of Crime: Studies in Newsmaking Criminology* (New York: Garland Publishing, 1995) 95 at 101.

[118] Richard V. Ericson, Patricia M. Baranek and Janet B.L. Chan, *Negotiating Control: A Study of News Sources* (Toronto: University of Toronto, 1989) at 91.

[119] Steven M. Chermak "Police, Courts and Corrections in the Media" in Frankie Y. Bailey and Donna C. Hale Eds. *Popular Culture, Crime and Justice* (Belmont: Westwadsworth Publishing, 1998) 87 at 87.

[120] Renée Goldsmith Kasinsky, "Crime in News Media: A Refined Understanding of How Crimes Become News" in Gregg Barak ed., *Media, Process, and the Social Construction of Crime: Studies in Newsmaking Criminology* (New York: Garland Publishing, 1995) 203 at 207.

[121] Ibid.

[122] Ibid.

"work at controlling reporters and their news accounts."[123] As Chermak points out, however, this "influences how crime is presented because criminal justice organizations are interested in promoting justice thus they control the selection and production of news images by participating in the process."[124]

Canada's police department and the media have a symbiotic relationship. Police departments rely on the media to help fight crime and the media rely on the police to provide them with a steady stream of news. The relationship between police and the media has improved substantively in the last two decades and increasingly police have adopted a "proactive approach to the news media" that is useful "in controlling the version of reality that is transmitted, sustained, and accepted publicly."[125] The police and the media both designate what constitutes deviance and both advance control solutions under the guise of "general good or public interest."[126]

In their coverage of crime, journalists rely on the police bureaucrats and the judiciary to structure what they cover and when they cover it. In other words, they rely on police to tell them when a crime has occurred and they rely on the court calendar to tell them when a court case will be followed. This "typically perpetuates a status quo 'law and order' storyline focusing on individual deviance rather than on structural and institutional problems."[127] Because sexual assault myths are so strongly entrenched in our cultural scripts, the deviant in sexual assault stories may well be the victim and not the perpetrator. For example, myths that suggest that the victim through her own behaviour may be responsible for her own sexual assault put the victim into the position of being deviant. Additionally, the cultural scripts of what makes a "good" victim creates the artificial binary of those who are worthy of protecting and those who are not. As Benedict points out in her analysis, children, older women, women who have followed traditional societal roles or women who are raped by strangers are more likely to be viewed by police and the media as truly innocent victims.[128] All others fall outside of that definition and their actions and behaviours can be called into question.

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[123] Ibid.

[124] Steven M. Chermak "Police, Courts and Corrections in the Media" in Frankie Y. Bailey and Donna C. Hale Eds. *Popular Culture, Crime and Justice* (Belmont: Westwadsworth Publishing, 1998) 87 at 89.

[125] Richard V. Ericson, Patricia M. Baranek and Janet B.L. Chan, *Negotiating Control: A Study of News Sources* (Toronto: University of Toronto, 1989) at 93.

[126] Ibid at 92.

In the coverage of crime stories, the news media rely on the criminal justice system as their first source of information. However, because news values require easily described stories and short sound-bites, the inside workings of the courtroom are not presented in their entirety:

> Legal discourse does not get presented because it has to compete against the news organization's need to satisfy news discourse. Legal technicalities, such as rules of evidence, interpretations of precedent, and jury instructions are inconsistent with the types of news preferred. Although these important issues affect the outcome of the case, they are complicated and not easy to condense into the format requirements of news discourse.[129]

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[127] Robert Hackett and Yuezhi Zhao, *Sustaining Democracy? Journalism and the Politics of Objectivity* (Toronto: Garamond Press, 1998) at 142.

[128] Helen Benedict, *Virgin or Vamp: How the Press Covers Sex Crimes.* (New York: Oxford, 1992) at 19.

[129] Steven M. Chermak "Police, Courts and Corrections in the Media" in Frankie Y. Bailey and Donna C. Hale, eds. *Popular Culture, Crime and Justice* (Belmont: Westwadsworth Publishing Company, 1998) 87 at 95.

Thus, the nuances of legal discourse are lost in the media articulation of crime stories. Instead, what we see on the evening news and read in our morning paper are media vignettes of courtroom "drama".

Agenda Setting – Media Discourse About Sexual Assault

Studying the agenda setting function of the media particularly in the way they cover sexual assault crimes is necessary. By deciding which issues it will cover, "the media set the public agenda, which in turn influences the importance citizens ascribe to reported issues."[130] Second, by giving primacy to one issue over another the media actively influence how people evaluate events and the people involved in those events.[131] The effect is subtler than propaganda, but just as important, as research suggests that just by paying attention to a subject, the media can alter the public's perspective about what people believe is important in their lives and what is not.[132] Studies have indicated that the more time the media spend on an issue, the more salience these issues have to the public.[133] Thus, the statistic that indicates that 50% of women would not report their sexual violence to police because they do not view it as significant suggests that the agenda setting function of the media may be having an effect on reporting rates of this crime.[134] As Ray Surette argues the "media, policy makers and the public have an unspecified but mutually reinforcing causal impact on one another's views of the world."[135] Understanding how much space English Canada's newspapers devote to sexual assault suggests its potential importance first to the media and second to policy makers.

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[130] Nayda Terkildsen and Frauke Schnell, "How Media Frames Move Public Opinion: An analysis of the Women's Movement." (1997) 50 Political Research Quarterly 880 at 880.

[131] Ibid.

[132] Thomas E. Nelson, Rosalee A. Clawson, and Zoe M. Oxley, "Media Framing of a Civil Liberties Conflict and Its Effect on Tolerance." (1997)91 American Political Science Review. 567 at 567. For more information regarding agenda setting, see also Joseph Capella and Kathleen Hall Jamieson, *Spiral of Cynicism: The Press and the Public Good* (New York: Oxford Press, 1997).

[133] Agenda setting studies have been particularly useful in studying media effects on coverage of political campaigns. See for example, Shanto Iyanger and Simon Adams "News Coverage of the Gulf Crisis and Public Opinion: A Study of Agenda Setting, Priming and Framing"(June 1993) 20:3 Communication Research or Capella and Hall Jamieson's *Spiral of Cynicism* as examples of the broad range of topics studied.

From a media perspective, while crime may be easy to report, some crimes grab more headlines than others. Studies indicate that violent personal street crimes like murder, rape and assault will be considered more newsworthy than common offences like burglaries or thefts.[136] However, sexual assault "is dramatically underreported in contrast to murder," and the sexual assaults that are covered "are skewed in favour of sensationalized rapes by strangers as opposed to the more common rapes committed by persons known to the rape victim."[137] This suggests that from an agenda setting perspective sexual assault crimes are seen as secondary to crimes like murder. Indeed, in his analysis of newspaper coverage of sexual assault crimes between 1986 and 1990, Chris McCormick determined that sexual assault crimes are made "virtually invisible," with less than "1 percent of the crimes communicated to the public through the news".[138]

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[134] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, no. 6) at 17.

[135] Ray Surette, *Media, Crime, and Criminal Justice,* 2nd ed. (Belmont: West/Wadsworth Publishing, 1998) at 203.

[136] Ibid at 87.

[137] Ibid at 68.

[138] Chris McCormick *Constructing Danger: the mis/representation of crime in the news* (Halifax: Fernwood Publishing, 1995) at 28-29.

The difficulty with this analysis however, is that it does not fully interrogate where the attrition regarding sexual assault crimes occurs. Are the police not reporting the crimes to the newspapers or are the newspapers not reporting the crimes? McCormick contends that the under-reporting of rape crimes results in a distorted construction of sexual assault. It relies on the police (and I would argue, defence lawyers) to define rape, and it means that the public is left with a law-and-order institutional understanding of rape rather than a woman-centred, societal overview.[139] Some critics suggest that the agenda setting function of the media which allows for the lack of attention to news about violence against women creates the impression that "rape and violence against women are less significant than other forms of violence."[140]

The invisibility of rape on the newspaper page may be due to the operation of two entrenched rape myths. The first is that women lie about rape and the second is that rape sullies the victim. In the first case, police departments and newspapers may be reluctant to provide information regarding rape investigations for fear that the perpetrator has been falsely accused of the crime. In the second case, there may be fears that reporting on sexual assault crimes potentially identifies the victim and sullies her reputation. It is for this reason, that the judge can implement stringent guidelines regarding the identification of the victim in court proceedings.

Additionally, while crime news may be a media mainstay, covering the activities of criminal justice is not. According to Surette, the criminal justice system often appears in the background of the news story and when it is covered, it is usually coverage of a court trial.[141] Recall that some women surveyed said that they would report their crime to police if they felt that justice would be served.[142] How can women feel a sense of justice if newspapers do not report the positive outcomes of sexual assault cases in court?

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[139] Ibid at 30.

[140] Elizabeth K. Carll in John McManus and Lori Dorfinan "Function truth or sexist distortion? Assessing a feminist critique of intimate violence reporting" (2005) 6:1 Journalism. 43 at 44.

Framing The Rape Story

The media not only set the agenda on news stories, they also frame stories in a particular way. Framing, as defined by Shanto Iyengar, "refers to subtle alterations in the statement or presentation of judgement and choice problems, and the term 'framing effects' refers to changes in decision outcomes resulting from these alterations."[143] While agenda-setting determines what will be covered, framing "asserts that issues, in and of themselves, can be arranged or presented in multiple fashions and as such influence citizens' ensuing issue considerations and levels of policy support."[144] Framing "defines and constructs a political issue or public controversy."[145] In short, framing elevates some issues and downplays others and in the process, shapes and mediates public opinion.

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[141] Ray Surette *Media, Crime and Criminal Justice* 2nd Edition (Belmont; Wadsworth Publishing, 1998) at 30.

[142] Julian V. Roberts, Michelle G. Grossman, and Robert J. Gebotys, "Rape Reform in Canada; Public Knowledge and Opinion" (1996) 11 Journal of Family Violence. 133 at 140.

[143] Shanto Iyengar, *Is Anyone Responsible? How Television Frames Political Issues.* (Chicago: The University of Chicago Press, 1991) at 11.

[144] Nayda Terkildsen and Frauke Schnell, "How Media Frames Move Public Opinion: An analysis of the Women's Movement." (1997) 50 Political Research Quarterly. 880 at 880.

[145] Thomas E. Nelson, Rosalee A. Clawson, and Zoe M. Oxley, "Media Framing of a Civil Liberties Conflict and Its Effect on Tolerance." (1997) 91 American Political Science Review. 567 at 567.

Łoś and Chamard analyzed the coverage of sexual assault crimes in the *Toronto Star* and the *Globe and Mail* from 1980 to 1984. In their analysis, stories regarding stranger rape dominated the print media prior to 1983; however, after the implementation of sexual assault reforms in Canada, journalists were "more willing to report on cases of acquaintance rape, and thus present a more realistic view of rape."[146] Yet even with a change in focus, Łoś and Chamard contend the entertainment value of the sexual assault story was the driving frame as newspapers continued to focus on the "titillating potential of acquaintance rape stories."[147]

According to Geraldine Finn (and reinforced by Benedict's analysis), sexual assault by strangers is viewed with much more horror than sexual assault by acquaintances, which occurs more frequently. In news coverage of sexual assault crimes that occur when the assailant is a friend or a relative of the victim:

> the assailant is regularly regarded with sympathy (male affines are the corner-stone of patriarchy and must therefore not be questioned) and the assaulted with suspicion. *Her* word is discounted when not corroborated by a witness and disallowed completely when the child is below a certain age, while *his* word is given considerable credibility (reflecting the deeply rooted misogyny of our culture).[148]

Moreover, media framing of sexual assault tends to "structure the rape in terms of the rapist's perception of the incident and/or the frustration/aggression hypothesis which is used in court to get the rapist 'off' the charge."[149]

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[146] Maria Łoś and Sharon E. Chamard "Selling newspapers or educating the public? Sexual violence in the media" (1997) 39:3 Can. J. Crim. 293 at 303.
[147] Ibid at 304.
[148] Geraldine Finn "Taking Gender into Account in the 'Theatre of Terror': Violence, Media and the Maintenance of Male Dominance" (1989-1990) 3:2 C.J.W.L. 375 at 379.
[149] Ibid at 386.

Certainly media depictions of sexual violence reinforce a victim's attribution of blame. While no research has been done that directly looks at the effect that media framing has on a rape victim's willingness to report the crime, an American study examining the impact on reporting rates when the victim's name is released by the media is informative. In a 1999 survey, respondents were asked to react to four stories about rape. Some of those stories contained the name of the victim. The study found that

> Individuals were not affected by the identification of rape victims and were neither more sympathetic nor more blameful to victims, thus suggesting that the details of the crime and *the way the crime is reported* probably has a more powerful impact on readers' perception than the use of the victim's name.[150] (Emphasis mine.)

Thus, examining how the media frame sexual assault crime and how the crime is reported is integral to understanding the prevalence and impact of the cultural scripts regarding rape.

The use of sources is another way that reporters frame stories about sexual violence. Reporters rely on sources yet some sources are considered more credible than others. Teun van Dijk suggests that "social hierarchy seems to be reproduced in the rhetorical hierarchy of credibility and reliability."[151] Primary news sources "represent the professional and managerial culture of society's chief political, economic, intellectual and control institutions. These are the officials, such as the politicians or police officers, and experts, like academics and scientists, who are deemed the most credible source of information."[152] Not surprisingly, women seem to be missing as sources of information in news – one way that women's voices and experiences are ignored or silenced. Benedict found that in 1989, women were quoted as news sources in only 11 percent of stories that appeared in 10 major newspapers in the United States.[153]

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[150] Patricia H. Grant and Paula I. Otto, "The Mass Media and Victims of Rape" in Laura J. Moriaty ed., *Controversies in Victimology* (Cincinnati: Anderson Publishing Company, 2003) 43 at 53.

[151] Teun van Dijk *News as Discourse* (Hillsdale: Lawrence Erlbaum Associates, 1987) at 87.

By contrast, secondary news sources can be divided into "ordinary" people and representatives of oppositional groups. The "ordinary" source serves as "a source of moral and emotional reaction to an event or issue" and often plays the role of the victim or potential victim.[154] The oppositional group source plays a "reactive role, responding, usually in a negative emotional way, to the actions of primary sources" like the judiciary.[155] Women are often relegated to the role of secondary news sources in the coverage of news. Women are asked to "provide negative emotional reaction" but seldom are quoted as the more authoritative primary news source.[156]

Women may be missing as sources in a news story and they are also missing as reporters in the news room. In Canadian newsrooms, women are not equally represented as reporters, despite the fact that the number of female journalist students outnumbers males. According to a Media Watch content analysis of 16 major dailies in Canada in 1998, female reporters wrote only a quarter of the news stories appearing in the daily newspapers. Only 10 percent of the *National Post*'s news stories were written by women, while women wrote 22 percent of the stories appearing in the *Globe and Mail.*[157]

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[152] Michèle Martin *Communication and Mass Media: Culture, Domination and Opposition.* (Scarborough: Prentice Hall, 1997) at 243.
[153] Helen Benedict, *Virgin or Vamp: How the Press Covers Sex Crimes.* (New York: Oxford, 1992) at 21.
[154] Michèle Martin *Communication and Mass Media: Culture, Domination and Opposition.* (Scarborough: Prentice Hall, 1997) at 243.
[155] Ibid.
[156] Ibid at 244.

Moreover, there is considerable evidence that women hold little power in the newsroom. As John Miller wrote in 1998, of Canada's 15 largest daily newspapers "only the *Edmonton Journal* has a woman as its publisher" and "only five have women managing editors."[158] A 1993 Ryerson survey determined that in six of the nine dailies studied, "women had a much poorer chance of getting their stories on page one than their numbers in the newsroom might suggest."[159] Additionally, the newsroom demographic at Canada's daily newspapers is overwhelmingly white. In 1993, John Miller and Kimberly Price conducted an analysis of five major newspapers in Canada and determined that minorities are not positively represented. In their analysis, they determined that only 128 of the 895 local news stories mentioned minorities or wrote about issues that affected minorities.[160] While Canadian newspapers provide their readers with a Canadian perspective, it is a predominantly white male perspective. Women's voices and stories of importance to women are deemed less important and relegated to secondary status. Thus, the purported truth contained within newspapers is the truth of the dominant group.

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[157] Media Watch "Women Strike Out – 1998 Newspaper Survey." (n.d.) <www.mediawatch.ca.

[158] John Miller, *Yesterday's News: Why Canada's Daily Newspapers are Failing Us* (Halifax: Fernwood, 1998) at 135.

[159] Quoted in John Miller, *Yesterday's News: Why Canada's Daily Newspapers are Failing Us* (Halifax: Fernwood, 1998) at 135.

[160] Ibid at 139.

Reporting Sexual Assault – The Barriers And "The Good Story"

All the reporters interviewed for this analysis relied on the police for information about crime. All suggested that they listened to police scanners for breaking crimes stories and they also regularly utilized police news releases and followed up phone calls from the public. They did acknowledge though, that for the most part sexual assault crimes are not police calls that go out on the scanner and thus, unless police release the information, it is difficult to know about sexual assault crimes at the investigative level. Thus, the first major barrier for reporters in covering sexual assault crimes is the police.

In Toronto, the impact of the Jane Doe civil suit[161] has changed the way police release information about sexual assault. According to Nick Pron: "You used to have to play pocket pool with the cops to get information about rape stories, but now they've become more forthcoming. In fact, now they tell us more than we can use."[162] By contrast, Patty Brooks with the *Halifax Chronicle Herald* says that often she would find out about sexual assault crimes only after they made it onto the court docket.[163] In Victoria, Jody Paterson echoed similar concerns, suggesting that the media are not being informed about sexual assault crimes: "your day-to-day sexual assault—not only do they not make it on the front (page), but they don't even get reported to us from the police. It has to be somebody famous, something quirky, something horrendous."[164]

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[161] In 1998, Jane Doe won a civil suit against the Toronto Police, claiming that its failure to warn women that a serial rapist was operating in her neighbourhood was a violation of her constitutional rights. For more information about this case, please read Jane Doe, *The Story of Jane Doe: A book about rape* (Toronto, Random House, 2003).

[162] Interview of Nick Pron, Police Reporter, *Toronto Star* (05 November 2004), telephone interview.

[163] Interview of Patricia Brooks, Staff Reporter, *Halifax Chronicle Herald* (25 October 2004), in the newsroom at the *Halifax Chronicle Herald.*

All the journalists interviewed talked about the institutional barriers that prevent sexual assault crimes from being covered in their newspapers. The first is the fact that the police simply do not release information about all the sexual assault crimes committed in the community. Even when the police do issue a news release, little information is provided, as Fairclough explains: "When it's a major rape, then they'll give us the full story, but in most of the cases coverage is less than 5-6 inches and it's brief."[165] The fact that the victim cannot be identified also has an impact on the value of the story. Pron says, "If there are no names in the stories, then the editor's eyes sort of glaze over and it's hard to write. There's always another better story to work on."[166]

That is not to say that the reporters will not try to get interviews with the victims. Helm says her reporters will leave their names with police and ask the victims to contact them in order to report on the assault.[167] Kines says that in some rare cases, the victims themselves approach the reporter to discuss their assault.[168] Owen says he has been able to protect the identity of the victim and still make a sexual assault story a front-page story:

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[164] Interview of Jody Paterson, former Police Reporter, *Victoria Times Colonist* (01 November 2004), in the Douglas Hotel in Victoria.
[165] Interview of Ian Fairclough, Valley Bureau, *Halifax Chronicle Herald* (26 October 2004) by telephone.
[166] Interview of Nick Pron, Police Reporter, *Toronto Star* (05 November 2004), telephone interview.
[167] Interview of Denise Helm, Day News Editor, *Victoria Times Colonist* (02 November 2004), in person in the newsroom of the *Victoria Times Colonist.*
[168] Interview of Lindsay Kines, former Police Reporter, *Vancouver Sun* (02 November 2004), in person at the British Columbia Legislature.

> I had a story … of a wrestler at the U of M who two years ago allegedly sexually assaulted a young girl under his charge. Now I couldn't release his name and I couldn't release other names of other officials involved in the alleged cover up of this but I could speak with the father. I couldn't use his name obviously, but I still did get a front page story.[169]

Owen says however, that doing the story took a lot of extra work.[170]

What makes it a good story? Each of the reporters and editors were asked what made a sexual assault story a story of interest for the newspaper and their responses were similar. Pron, Paterson, Bruce and Helm all agreed that news stories that cover sexual assault should invoke an emotional response in their readers. There are other elements as well, as Pron explains:

> First and foremost, it has to be one in a series of. If it's a predator. In some cases, it acts like a red alert – especially after Bernardo. If it looks like a pattern, then we'd go high on it. If it has a horrific nature – I mean, all of these cases are to some degree horrific, but it will get played up if someone is snatched off the street in broad daylight, if they've been badly beaten – they have to have a shock value. For example, there was a story in which a woman came out of a night club and was abducted and raped and left at the side of the road. That story scared the hell out of people. It's stories like that. If they're young, that's also high on the ladder. The stories that get the hairs up on the back of your neck…randomness, kids. A sensational nature for lack of a better word – although they are all pretty horrific.[171]

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[169] Interview of Bruce Owen, Police Reporter, *Winnipeg Free Press* (04 November 2004), in person at the Winnipeg Safety Building.

[170] Ibid.

[171] Interview of Nick Pron, Police Reporter, *Toronto Star* (05 November 2004), telephone interview.

For the local papers, crimes that are also local are also considered more newsworthy. Paterson says, "you want it to be local…. What you tend to see in crime stories is the desire to bring it home to people."[172]

English Canada's national newspapers' approach to news is slightly different than the way local papers cover news. For one, their focus is on the national and not the parochial. Cox says the Metro Toronto *Globe* edition may differ in its coverage than the national *Globe* edition. For the national paper, a sexual assault story must have a national scope and meet the novelty factor of news values:

> It has to be of interest for someone who is in Halifax and Vancouver. For a sexual assault to be interesting across the country, it has to be unique. It has to go beyond something that happens everywhere all the time—I mean, to the extent that sexual assaults have a pattern to them. If someone gets assaulted on a street or parking lot or something like that or even in their own home, chances are that that's not that interesting across the nation because the stories all sound the same right? That kind of story in Halifax would sound the same if it happened in Vancouver because of the same basic circumstances.[173]

The principles of novelty apply to national coverage of court stories as well however, there is the additional requirement of ensuring that it is interesting enough to appeal to a diverse audience.

Cox says court stories that contain contentious decisions are particularly interesting for a national paper. For the *Globe*, court stories on sexual assault become stories worth covering when "judges have made dicey decisions—you know when things don't seem right."[174] Cox cites as an example the reaction by Alberta Court of Appeal Judge John McClung to the Supreme Court of Canada's decision in what eventually was coined as the no-means-no case (please see Chapter 2 for a discussion about the relevance of the *R. v. Ewanchuk* decision). Judge McClung took exception to the Supreme Court ruling that suggested that the Appeal Court had relied on sexual stereotypes to overturn a lower court conviction of sexual assault. He responded by firing a salvo at Supreme Court Justice Claire L'Heureux-Dubé, suggesting that her "personal convictions ... could provide a plausible explanation for a disparate (and growing) number of male suicides being reported in the Province of Quebec."[175] It was later revealed that L'Heureux-Dubé's husband had killed himself. That story resulted in 10-days of extensive coverage in both national newspapers. This story according to Cox serves as an example of a story worthy of national coverage.[176]

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[172] Interview of Jody Paterson, former Police Reporter, *Victoria Times Colonist* (01 November 2004), in the Douglas Hotel in Victoria.
[173] Interview of Bob Cox, former National Editor *Globe and Mail* (29 October 2004) in person at *The Globe and Mail* cafeteria in Toronto.

Cox says stories in which the crown or defence make a comment that attracts public outrage would also be news worthy and, if a celebrity is involved, this too would mean that the *Globe* would cover the court case:

> There are cases in which the people are famous, because of course there's a cult of celebrity and you tend to cover that more than if someone is not famous. So, the Hilton case in Quebec in which Davey Hilton's two daughters wanted to be publicly known as his two victims. So of course we covered that because it's a famous case with a famous person.

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[174] Ibid.

[175] Justice John McClung "Right of Reply" *The National Post* (26 February 1999) A19.

[176] Interview of Bob Cox, former National Editor *Globe and Mail* (29 October 2004) in person at *The Globe and Mail* cafeteria in Toronto.

Thus, there is a limited range of stories important enough to garner national attention. Even more than the local newspapers, national newspapers are looking for sexual assault stories that are unusual, that feature unique, novel or famous victims or perpetrators, or contentious decisions by lawyers or judges.

There are staffing issues that may have an impact on national newspapers' abilities to cover sexual assault crimes as well. National newspapers do not have reporters in each city that are solely responsible for the police or court beat. As the national editor for the *Globe*, Cox would spend time looking at the internet versions of other newspapers across the country to see what they were writing about. Cox would then alert a regional reporter is there was something to follow up on by the *Globe*. Finally, articles from the wire are used.[177] The *National Post* also utilizes wire services such as Associated Press, Canadian Press and United Press International, but in addition, it can pick up stories from newspapers that belong to the CanWest chain. In 2002, this included 27 daily newspapers located from across the country.[178]

It becomes clear from talking to the journalists, that the police control the initial information about sexual assault crimes. It also becomes clear that courtroom procedures such as providing anonymity for the victim and at times the accused may have an impact on the news worthiness of sexual assault stories. Reporters who attempt to "flesh out" the stories regarding sexual assault may be hampered by deadlines and their workload for the day. Additionally, as Cox puts it, news is elastic.

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[177] Ibid.

[178] Canadian Newspaper Association "2002 Circulation Data" online: Canadian Newspaper Association www.can-acj.ca/newspapers/facts/circulation.

For example, on days when there are major news events like elections or the terrorist attacks in New York and Washington DC, there is little coverage of sexual assault crimes in any newspaper, as reporters turn their attention elsewhere.[179] Finally, the drive for a story to be unusual, local, provocative or sensational may also shape the way sexual assault crimes are depicted.

Conclusion

There are many different factors that influence media discourses about sexual assault. Understanding the impact of convergence and the political economy of media ownership provides one lens through which sexual violence is viewed. Canada's two national newspapers appear to be locked in a battle for readers that may influence how they cover the news. Additionally, the upheaval in media ownership has also lead to concerns about lay-offs and cutbacks in newsroom budgets. This too may have an impact on how the news and in particular sexual assault.

Additionally, examining the divergent goals of national versus local newspapers in relation to their coverage provides another way that the story of sexual assault is framed. The national newspaper has different goals and a different news agenda than the local newspaper. This will have some bearing on the type of news stories produced. Moreover, the gender, age and race of the journalists will also affect the news coverage. Journalists are themselves influenced by their own cultural backgrounds and their own worldview and this in turn will have an impact on how they report.

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[179] Interview of Bob Cox, former National Editor *Globe and Mail* (29 October 2004) in person at *The Globe and Mail* cafeteria in Toronto and interview of Bruce Owen, Police Reporter, *Winnipeg Free Press* (04 November 2004), in person at the Winnipeg Safety Building.

The somewhat symbiotic relationship between journalists and the police provides another facet that shapes the story of rape. As indicated, some police departments are more hands-on in their dealing with the media and as a result may have more control over the information provided about sexual violence. This too provides another way that the story is shaped.

Finally, the agenda setting and framing functions of the media further sway how society talks about sexual assault. Crime is considered a story worth covering in the media, but not all crime stories hold the same salience. News values favour stories with novelty, with colourful characters or easily identifiable winners and losers, thus shaping the media discourse and as a result our understanding about sexual violence.

Chapter 4 – How Is The Story Told?

"Rape stories are not new stories. They are as old as war, as old as man."[1]

The story about sexual violence is shaped by many different factors. The previous chapter looked at the way institutional factors such as newspaper ownership, readers' demands and news values influence the way the story is written. The relationship between the police and journalists also has an impact on the way the story is framed. This chapter investigates further how stories about sexual assault are told, by examining the agenda setting and framing functions of the newspapers.

As indicated earlier in Chapter 3, the media set the agenda by deciding which stories are covered and which are ignored. This in turn influences the public's perception of the importance of an issue.[2] Studies have indicated that the more time the media spend on a topic, the more it is seen as an important or serious.[3] Thus, it is important to understand how the newspapers viewed stories about sexual violence in 2002. By assessing the number of sexual assault stories covered, where the stories were placed within the newspapers, and the type of story written about sexual violence, I can then determine the agenda setting function of the newspapers on sexual assault crimes.

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[1] Jane Doe, *The Story of Jane Doe: A book about rape* (Toronto, Random House, 2003) at 2.

[2] Nayda Terkildsen and Frauke Schnell, "How Media Frames Move Public Opinion: An analysis of the Women's Movement." (1997) 50 Political Research Quarterly. 880 at 880.

[3] Thomas E. Nelson, Rosalee A. Clawson, and Zoe M. Oxley, "Media Framing of a Civil Liberties Conflict and Its Effect on Tolerance." (1997) 91 American Political Science Review. 567 at 567. For more information regarding agenda setting, see also Joseph Capella and Kathleen Hall Jamieson, *Spiral of Cynicism: The Press and the Public Good* (New York: Oxford Press, 1997).

Additionally, as outlined in the previous chapters, how the newspapers frame the issue of sexual assault in essence defines the public issue of sexual violence.[4] I not only determined how the story of sexual assault is framed by the newspapers in 2002, I also established who wrote the story, positing that the sex of the reporter may influence the way the story is told.

Moreover, in this chapter, I examine the types of sexual assault stories given prominence by the newspapers. Does the coverage of sexual assault crimes remain focused on the local story? Is the police investigation of the crime given more salience than coverage of sexual assault trials? Are recent crimes about sexual assault deemed more important by the newspapers than historical complaints of sexual violence that occurred prior to 1997? How the story of sexual assault is told and what the story is about clearly underline the agenda setting and framing functions of the newspapers.

About The Stories

In the year 2002, the newspapers under study produced 1532 news stories that dealt with sexual assault. As indicated in Chapter 1, there are a number of different editions of both newspapers sent out across the country and in the Dow Jones Interactive database, it is not made clear which edition was supplied. Thus, it is possible that the number of stories regarding sexual assault may in fact be over-represented. In cases where the story appeared on different pages in different editions, I chose the page that was noted as being in the national edition for coding. For 2002, the *National Post* published 247 stories and the *Globe and Mail* ran 231. Local papers published a total of 1054 stories in 2002, with the *Times Colonist* running 249 stories, the *Free Press* 203 stories, the *Toronto Star* 294 stories and the *Chronicle Herald* 308 stories.

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[4] Thomas E. Nelson, Rosalee A. Clawson, and Zoe M. Oxley, "Media Framing of a Civil Liberties Conflict and Its Effect on Tolerance." (1997) 91 American Political Science Review. 567 at 567.

Table 4.1: Number of news stories on sexual assault by newspaper

Newspaper	Frequency
National Post	247
Globe and Mail	231
Victoria Times Colonist	249
Winnipeg Free Press	203
Toronto Star	294
Halifax Chronicle Herald	308
Total	**1532**

From an agenda setting perspective then, sexual assault crimes are given some salience in the daily newspapers. Each paper ran a story about sexual assault most days that they published. However, it is clear that the number of news stories about sexual assault does not actually match the number of sexual assaults that occurred in Canada in 2002. As stated earlier, in 2002, there were 27,094 sexual offences reported to police.[5] In the cities under study, the rates of police reported sexual assault crimes varied. In Halifax, there were about 370 sexual offences reported to police in 2002, while in Toronto, approximately 2700 sexual offences were reported to police. In 2002, Winnipeg police received about 700 sexual offence reports while Victoria dealt with just over 240.[6][7]

In all of the cities it becomes clear that the police are the gatekeepers when it comes to the initial release of information about sexual offences. Indeed, recall that in 2002, the

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[5] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, no. 6) at 2.

[6] Ibid at 2.

[7] Statistics Canada provided the rates of sexual offence reports to police per Census Metropolitan Area per 100,000 population. To determine the total number of sexual assaults, I took the reporting rate per 100,000 and multiplied it by the population size of the Census Metropolitan Area as determined in 2001 to determine an approximate number.

Toronto Police Service released 214 news releases that related to sexual assault, only 8% of the overall crimes reported.[8] By comparison, the Halifax Regional Police sent out three news releases regarding sexual assault crimes in 2002,[9] representing fewer than 1% of the sexual offences reported. The Winnipeg Police Service distributed 44 news releases that related to sexual assault in 2002, or about 6% of the sexual offences reported.[10] The Victoria Police Department does not have a centralized office responsible for sending out news releases and thus, it was not possible to access the news releases for 2002.[11]

It also becomes clear however, that not all the news releases about a sexual offence are being used by the newspapers. Indeed, there is evidence of a further winnowing effect in the newspapers in two cities. In Toronto, the *Star* ran only 57 stories that detailed a sexual assault reported to police, while in Winnipeg, the *Free Press* ran just 26 stories that discussed a sexual assault at the reporting stage to police. Conversely, the *Halifax Chronicle Herald* examined 23 stories about sexual violence reported to police, considerably more than the 3 news releases sent out by the police. It becomes obvious then the police rely on the media to facilitate their releases regarding sexual violence, but are selective about what stories they will release for publication. As suggested in Chapter 3, there are clear news values such as novelty that drive the newspapers to include these stories in their daily news offerings. Moreover, the newspapers surveyed do not act as mere messengers for the police and not all the releases made it on the pages of the newspaper. What did is the topic of exploration in this chapter.

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[8] The news releases for 2002 were provided to me by the Toronto Police Service by John Angus, the Webmaster for Corporate Communications.

[9] The news releases were taken off the website of the Halifax Regional Police on October 23, 2004 by accessing: http://www.police.halifax.ns.ca/menu.asp.

[10] The news releases were given to me by Constable Shelly Glover, the Public Information Officer for the Winnipeg Police Service's Public Affairs Unit on 03 June 2004.

[11] Interview of Constable Rick Anthony, Downtown Resource Officer, Targeted Policing Division, Victoria Police Department (02 November 2004) in person at the Victoria Police Department Headquarters.

Location Of Story

A newspaper's front page performs two main functions. First, it provides readers with a "summary of the most important events of the day."[12] Second, it "reflects the interests" of the newspaper readership.[13] Newspaper front pages have changed dramatically. The front page of early newspapers "featured small black and white photos, vertical page design and seven column rules separating the eight columns of seemingly endless grey lengths of type."[14] In 1900, a front page story in the *New York Times* had 10 thousand words of text, compared to 2200 in 2004.[15] In the last thirty years, the front page has changed from "grey to colourful, from primarily text-based to a regular reliance on various types of art."[16] Thus, the number of stories that can run on the front page is limited and selection is driven by importance and reader's interests.

The editors at the *Halifax Chronicle Herald* allowed me the opportunity to watch as they put together their paper for the day. What happens at the *Chronicle Herald* appears to represent a typical day at other newspapers as well, with the editors meeting first at mid-day to determine how the news day is shaping up and then later in the late afternoon for a second meeting called a budget meeting. At the budget meeting, the various editors determine what the front section and more specifically the front page will look like. The front section is built from back to front[17] and at times, it is "a bit like monkeys in a cage – putting together a newspaper is a daily miracle."[18]

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[12] Jack Rosenthal "What belongs on the front page of the New York Times" *New York Times* (22 August 2004) 4.2.

[13] Ibid.

[14] Sandra H. Utt and Steve Pasternack, "Front Page Design: Some Trends Continue" 24:3 Newspaper Research Journal. 49 at 49.

[15] Jack Rosenthal "What belongs on the front page of the New York Times" *New York Times* (22 August 2004) 4.2.

[16] Sandra H. Utt and Steve Pasternack, "Front Page Design: Some Trends Continue" 24:3 Newspaper Research Journal. 49 at 49.

A story regarding rape or sexual assault appeared on the front page of the newspapers 76 times (5% of the total newspaper headlines) in 2002. The plurality of the stories could be found not on the front page, but in the front section of the newspaper (104 stories or 68.0%). The remainder of the stories appeared in other sections of the newspapers. Nationally, few of the stories that dealt with sexual assault made it to the front page in either newspaper.

Table 4.2: Location of story by national newspaper

	National Post	*Globe and Mail*	Total
Front Page % within paper	4 1.6%	7 3.0%	11 2.3%
Front Section % within paper	228 92.3%	209 90.5%	437 91.4%
Other % within paper	15 6.0%	15 6.5%	30 6.3%
Total **% within paper**	**247** **100%**	**231** **100%**	**478** **100%**

Only four stories regarding sexual assault (1.6%) ran on the front page of the *Post*. One was a story about the gang-rape of a teenaged girl in Pakistan, two of the stories dealt with the sexual abuse of children in the Catholic Church and one story detailed the sexual assault of a seven-year old boy in a bathroom at the Wonderland theme park. It would appear that in the *Post* news stories that dealt with child victims were important enough for the front page. Scandal, as demonstrated by the story regarding the Catholic Church scandal was also a news value that would vault a story from the back pages onto the front page.

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[17] Interview of Nick Pron, Police Reporter, *Toronto Star* (05 November 2004), telephone interview.
[18] Interview of Bruce Owen, reporter, *Winnipeg Free Press* (04 November 2004) at Winnipeg.

By comparison, the *Globe* ran a story about sexual assault on the front page seven times in 2002 (3% of its coverage). However, like the *Post* it would appear that the news values that determined if a story would run on the front pa,ge in the *Globe* are also stories about scandal. For example, the front page coverage of the scandal in the Catholic Church, the sexual assault of boys at the Maple Leaf Gardens, the Prime Minister's son being charged with sexual assault and high-profile Quebec businessmen involved in a prostitution ring all made the front-page. However, Bob Cox asserts that the *Globe* is relatively "choosey" about what it puts on the front page. As Cox puts it, "there's lots of interesting things that go on everyday to report on so it's not like we need sexual assaults to sell newspapers," and the decisions about what to place on the front page are guided by what will interest readers across the country.[19]

Sexual assault stories appeared on the front page of the *Victoria Times Colonist, Winnipeg Free Press* and *Halifax Chronicle Herald* much more frequently compared to the national papers. Surprisingly the *Toronto Star* only put the issue of sexual assault on its front page three times, less frequently than any of the papers under examination. The *Halifax Chronicle Herald* ran the most stories about sexual assault on its front page with 31 stories or 10% of its coverage. Victoria had a story about sexual assault on the front page 13 times (5.2% of its coverage) while Winnipeg ran a story on the front page 15 times (7.4% of its coverage). Stories about sexual assault appeared in the front section of the local newspapers more than half the time (57.6% or 607 stories) and on the front page of other sections of the newspapers 58 times (5.5% of the local newspapers' coverage). The *Free Press* had the highest number of front page stories in other sections with 34 stories (16.7% of its coverage). The majority of these front page stories were in the B-Section of the *Free Press*, which is the city section of that newspaper. While the *Star* did not have a great deal of stories on the front page, almost half of its stories about sexual assault were in the front section (138 stories or 46.9%) and 35% of its sexual assault stories (105 stories) ran in its B-section (city section).

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[19] Interview of Bob Cox, former National Editor *Globe and Mail* (29 October 2004) in person at *The Globe and Mail* cafeteria in Toronto.

Table 4.3: Location of story by local newspaper

	Victoria T.C.	Winnipeg F. P.	Toronto Star	Halifax C.H.	Total
Front Page % within paper	13 5.2%	15 7.4%	3 1.0%	31 10.0%	**62** **5.9%**
Front Section % within paper	141 56.6%	116 57.1%	138 46.9%	212 68.8%	**607** **57.6%**
Front page other section % within paper	11 4.4%	34 16.7%	9 3.1%	4 1.3%	**58** **5.5%**
Other % within paper	84 33.7%	38 18.7%	144 49.0%	6 19.8%	**327** **31.0%**
Total **% within paper**	**249** **100.0%**	**203** **100.0%**	**294** **100.0%**	**308** **100.0%**	**1054** **100.0%**

The majority of the front page stories in the *Chronicle Herald* featured multiple victims under the age of 14. For example, the paper ran a story on the front page about a local man who was charged with sexually assaulting four girls between the ages of four and 10.[20] Another front page story discussed charges against a local firefighter accused of molesting four boys.[21] Charges against a Sheet Harbour family doctor for sexually assaulting four boys also made it to the front page, the first time at the start of his trial,[22] and the second time when he was found guilty.[23] Not surprisingly the Gerald Regan court case ran on the front page in Halifax three times. The first story about Regan appeared after the Supreme Court's ruling that the prosecution of the former Nova Scotia premier was not an abuse of process.[24] The second story ran when the Crown decided not to pursue the case further[25] and the third story ran the same day and featured an interview with the women who accused Regan.[26]

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[20] Randy Jones and Brian Hayes "Man faces 'sickening' child-abuse charges" *Halifax Chronicle Herald* (06 February 2002) A1.

As in Halifax, the majority of the stories about sexual assault that were on the front page in Winnipeg dealt with child victims. In particular, the story about the investigation into the sexual assault and murder of an 11-year old Aboriginal boy ran on the front page of the *Free Press* five times. The boy's body was found in the basement of the Winnipeg Aboriginal Centre and police immediately launched a manhunt for the suspect.[27] The 23-year old suspect was arrested a day later at a bus station in Sault Ste. Marie.[28]

In Victoria, the sexual assault stories that appeared on the front page appeared to be a bit more eclectic. Overall, a sexual assault story made it to the front page of the *Times*

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[21] Randy Jones and Brian Hayes "Firefighter charged with molesting boys" *Halifax Chronicle Herald* (15 February 2002) A1.

[22] Sherri Borden "Visit to the doctor for flu led to sex assault, witness testifies" *Halifax Chronicle Herald* (22 May 2002) A1.

[23] Sherri Borden "Christie guilty of sex charges" *Halifax Chronicle Herald* (01 June 2002) A1.

[24] Brian Underhill and Dean Jobb "Regan sex charges can go ahead" *Halifax Chronicle Herald* (15 February 2002) A1.

[25] Sherri Borden "Regan case dropped by Crown" *Halifax Chronicle Herald* (18 April 2002) A1.

[26] Susan Bradley "Sorry there were no convictions – accuser" *Halifax Chronicle Herald* A1.

[27] Mike McIntyre "Boy murder Youngster, 11 strangled in horrific sex attack at Aboriginal Centre" *Winnipeg Free Press* (28 August 2002) A1.

[28] Bruce Owen "Caught! Ontario police arrest suspect in sex killing of Winnipeg boy" *Winnipeg Free Press* (29 August 2002) A1.

Colonist 13 times (5.2% of its coverage). The stories ranged from sexual assault charges being dropped in Vancouver against a jet setter who dashed around "California in Dodi Fayad's Hummer" and hung out "with low-end movie stars"[29] to coverage of the trial of a female teacher accused of sexually assaulting a student[30] or the a story about the sexual assault charges against the Prime Minister's son, Michel Chrétien.[31] Two front page stories dealt with the kidnapping of a Surrey woman and the sexual assault of another by a BC man.[32]

As stated earlier, only three sexual assault stories ran on the front page of the *Toronto Star* in 2002. The first talked about a police investigation into a possible serial killer and how the police investigation is guided by recommendations made in 1996 following an investigation into the police handling of the Paul Bernardo investigation. Justice Archie Campbell in 1996 criticized police for failing to cooperate in their investigations and as a result "Bernardo's DNA sat on a shelf untested for the 25 and a half months when he raped four women and murdered 14-year old Leslie Mahaffy and 15-year-old Kirsten French."[33] A governing council was set up following Campbell's recommendations and this investigation was the first time it was put into action.[34] The second front page story followed the arrest of an off-duty Toronto Police officer for sexually assaulting a flight attendant on a WestJet flight.[35] The third story was about the adoption of a Sierra Leone woman who had been raped and kidnapped by rebel forces in Sierra Leone during the civil war there. A Collingwood family read about her story in a news article and worked with humanitarian organizations to adopt her. In this news article, reporter Natalie Alcoba talked to Maria-Tu Kamara and her new family, following her arrival in Canada to start a new life.[36] All of these stories had a local angle to them.

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[29] Kim Westad "Accused conman spared Island sexual assault Trial: Former jet-setter still held on fraud charges" *Victoria Times Colonist* (23 January 2002) A1.
[30] Bruce Thorson "Canadian acquitted of indecent assaults on students" *Victoria Times Colonist* (05 February 2002) A1.
[31] "Chrétien's son accused of sex assault" *Victoria Times Colonist* (27 July 2002) A1.
[32] Petti Fong and Jake Kennedy "Kidnap suspect surrenders after week in hiding" *Victoria Times Colonist* (15 May 2002) A1.
[33] Michelle Shepard "Tracking a deadly predator in wake of Bernardo" *Toronto Star* (06 January 2002) A1.
[34] Ibid.

Clearly, there are some overarching journalistic values that determine what fits on the front page of the local papers. The first is the novelty value as evidenced by the story from Halifax about an 80-year old perpetrator convicted of sexual assault[37] or the story in Toronto about an off-duty police officer charged with sexual assault.[38] As Pron says, for the *Toronto Star,* stories that have a novelty are "the A-one candidates for front page."[39] The second news value is magnitude. Stories that feature multiple victims are also dominant on the front page. Third, stories about young victims, particularly children are also stories that will be on the front page, suggesting that the victimization of the young and innocent is horrendous enough to warrant inclusion on the front page. Finally, the local angle to the news story is also a strong determinant of front-page attention. According to Helm at the *Times Colonist*, what goes on the front-page "comes down to story telling and there might be something else a little more esoteric in terms of policy that may affect people's lives versus the quirky—the water cooler chit chat kind of things or something that's just downright odd."[40]

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[35] John Burman "Officer charged in air rage cases – Arrested at Hamilton airport off WestJet flight" *Toronto Star* (29 August 2002) A1.
[36] Natalie Alcoba "Sierra Leone teen journeys from horror to a home – Canadians welcome a victim of brutal African civil war" *Toronto Star* (05 August 2002) A1.
[37] Brian Medel "80-year-old gets two years for abuse" *Halifax Chronicle Herald* (08 May 2002) A1.
[38] John Burman "Officer charged in air rage cases – Arrested at Hamilton airport off WestJet flight" *Toronto Star* (29 August 2002) A1.
[39] Interview of Nick Pron, Police Reporter, *Toronto Star* (05 November 2004), telephone interview

An overview of what was included on the front page and what was left off must be tempered however with an understanding that the front-page space is finite and must be considered in context with what other news had occurred that day. On the day following a federal election for example, it would be surprising to see many stories other than those that relate to the election outcome on the front page.[41] However, this study is comprehensive in that it analyzed the year-long coverage of the front-page and thus, does provide a good understanding of the importance placed on sexual assault crimes by outlining the number of times these stories were given front page prominence.

Type Of Story

How the story was told is also important. Newspapers offer a variety of ways in which to explore news issues of the day. Editorials, news stories, and columns all have different functions within the news room an each tells a story in a different way. Firstly, editorials are important because as van Dijk suggests, they are "*the* place for newspaper ideologies"[42] (emphasis the author's). Editorials serve a hegemonic function in that they provide "practical, common sense frameworks for making sense of the social situation."[43] In other words, editorials about sexual assault can provide a world-view of sexual assault.

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[40] Interview of Denise Helm, Day News Editor, *Victoria Times Colonist* (02 November 2004), in person in the newsroom of the *Victoria Times Colonist.*

[41] The fact 2002 was not a year for significant news events such as a federal or provincial election or events similar to the September 11th terrorist attacks influenced my decision to study sexual assaults in 2002 as the news covered in that year would be considered more analogous to a "normal" news year.

[42] Teun van Dijk, *Racism and the Press* (Routledge: New York, 1991) at 150.

[43] Ibid.

As well, they allow the elites of the newspaper to state their opinion about news happenings. Their insights do not need to be balanced or even attributed. Instead, they can provide a commentary that is put forth as commonsense.

Secondly, the newspaper columnist is a relatively new "invention" arising out of the 1920s as a departure from so-called objective news reporting.[44] In addition, columnists are expected to provide their perspective, but they do not have to "toe" the so-called company line. As Paul Kostyu points out, a "column is writing with a point of view. It comes with an attitude."[45] Overall, columnists are expected to provide an interpretive analysis of the news.[46] From a managerial perspective, columns are similar to editorials. Columnists, like editors, are considered among the elite in the newspaper hierarchy. However, unlike editorial staff, they are not always expected to toe the newspaper management's perspective on an issue. Indeed, some may be hired to offer a counter or alternative perspective. As well, like editorials, columnists are expected to write their opinions and thus the idea of objectivity is not an issue. Finally, columnists also do not have to worry about balance and thus an alternative source does not have to be used, something that reporters are at least supposed to strive for in a news story. Instead, the writer's voice is expected to be dominant in a column.

By contrast, news stories, news briefs, entertainment, and sports stories or sports in brief stories are expected to operate under at least the guise of objectivity. To provide objectivity is to write a story that has "no omission or distortion."[47] As briefly explained in Chapter 2, media critics contend that objectivity is unattainable,[48] and Nesbitt Larking argues that newsrooms across Canada are becoming less objective "for economic reasons."[49] Cutbacks in staff in newsrooms across the country mean there is reduced capacity to pursue the story and get a multiplicity of viewpoints. Moreover, newsrooms are also becoming less impartial and less fair:

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[44] Robert Hackett and Yuezhi Zhao, *Sustaining Democracy? Journalism and the Politics of Objectivity* (Toronto: Garamond Press, 1998) at 42.
[45] Paul Kostyu, "Columns are daily puzzles" in Jun/Jul 2004 92:5 The Quill. 44 at 44.
[46] Robert A. Hackett and Yuezhi Zhao, *Sustaining Democracy? Journalism and the Politics of Objectivity.* (Toronto: Garamond Press, 1998) at 42.

> Canadian media have not been impartial. Instead, they have tended to attempt to achieve a balance that takes into account "all relevant viewpoints." Such viewpoints have rarely strayed far beyond a narrowly conceived centre. In a limited sense, working within this field of consensus is "fair." However, although journalists and organizations may follow the rules of enquiry, invite "both sides" of the issue to comment and verify their sources, they are likely to be operating from cultural and ideological foundations that are systematically biases against certain people, especially those deemed marginal.[50]

Despite this, the news story is not expected to contain an overt point of view or perspective. Instead, it is expected to be at least somewhat balanced.

Understanding how sexual assault is described by the various types of stories in the newspaper allows an opportunity to examine how editors, managers, columnists and news reporters view the crime. It is not enough to examine the number of stories. The types of stories also need to be scrutinized. The editorials provide the newspapers' world-view. The columnists are supposed to provide alternative view points that may critique the hegemony of the editorial. Finally, the news story is expected to be at least fair or balanced, if not objective.

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[47] Paul Nesbitt-Larking *Politics, society and the media: Canadian perspectives* (Toronto: Broadview Press, 2002) at 339.
[48] See for example Hackett and Zhao's *Sustaining Democracy? Journalists and the Politics of Objectivity.* Toronto: Garamond, 1998.
[49] Paul Nesbitt-Larking *Politics, society and the media: Canadian perspectives* (Toronto: Broadview Press, 2002) at 339.
[50] Ibid.

The majority of the stories written in 2002 regarding sexual assault were news stories (1051 or 68.6%). Close to one quarter of the stories were in-brief news stories (352 or 23%). These were usually labelled "in brief", "in review", or "east to west" and they made up 352 stories or 23% of the overall coverage. Additionally, there were 26 sports stories that were also considered in brief (1.7%). These "in brief" reports often contained more than one story and would appear at the top of the page of the newspaper or along the sides. There were 13 editorials written about sexual assault (.8%) and 34 columns or commentaries regarding this issue (2.2%). The lack of editorial space suggests that the managerial "world-view" does not view sexual violence as an issue of importance nor is it seen as an issue worthy of comment. Additionally, there were 14 feature stories regarding sexual assault (.9%), 15 stories (1%) labelled as entertainment, and 27 stories labelled as sports (1.8%).

Table 4.4: Type of story

Type of story	**Frequency**	**Percent**
News Story	1051	68.6%
Sports Story	27	1.8%
Entertainment Story	15	1.0%
Editorial	13	.8%
Commentary/Column	39	2.5%
Feature (Review)	9	.6%
In Brief	352	23.0%
Sports In Brief	26	1.7%
Total	**1532**	**100.0%**

Overall, the national newspapers wrote fewer news stories than the local papers, with about two-thirds of the stories about sexual violence in the national papers running as news stories rather than editorials or columns. The *Post* ran 145 news stories (58.7%) and the *Globe* ran 133 stories (57.6%) that were news stories. A significant percentage of the coverage of sexual assault in both the *Post* and the *Globe* was in the "in-brief" stories. These stories ran either on top of the paper or on the side and were short, east to west round-ups of the stories from across the country. They originated from other newspapers (in the case of the *Post* from Can-West newspapers) or from the Canadian Press or Associated Wire services[51] and they did not have a by-line. In the *Post* 32% of the stories were in-brief accounts (79 stories) and in the *Globe* 31.6% (73 stories) were in-brief accounts. This is significant in that the "in-brief" stories were clearly filler stories, designed to be put into editorial holes within the paper, containing little information about the sexual assault crimes.

Table 4.5: Type of story by national newspaper

	National Post	***Globe and Mail***	**Total**
News Story % within paper	145 58.7%	133 57.6%	278 58.2%
In Brief % within paper	79 32.0%	73 31.6%	152 31.8%
Editorial % within paper	1 .4%	6 2.6%	7 1.5%
Commentary % within paper	10 4.0%	7 3.0%	17 3.6%
Feature % within paper	5 2.0%	1 .4%	6 1.3%
Entertainment Story % within paper	1 .4%	1 .4%	2 .4%
Sports Story % within paper	5 2.0%	3 1.3%	8 1.7%
Sports In Brief % within paper	1 .4%	7 3.0%	8 1.7%
Total **% within paper**	**247** **100.0%**	**231** **100.0%**	**478** **100.0%**

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[51] Interview of Bob Cox, National Editor *Globe and Mail* (29 October 2004) in person at *The Globe and Mail* cafeteria in Toronto.

Other story genres included eight sports stories that dealt with rape, five in the *Post* (2.0% of coverage) and three in the *Globe* (1.3% of coverage) and only one in-brief sports story in the *Post* (.4%) and seven in the *Globe* (3.0%). In both papers there was one entertainment story written about sexual assault (.4% of coverage in each paper). There was not a great deal of editorial or column space dedicated to the issue of rape in either national newspaper. In 2002, the *Post* ran only one editorial on sexual assault, while the *Globe* had six. What is interesting is that in both the *Post* and the *Globe* the majority of the editorials and columns contained rape myths. It is also remarkable that there are limited differences in the type of stories ran by the national newspapers when covering sexual violence. This suggests that coverage of this type of crime is relatively formulaic and routinized by journalistic paradigms; however, as will be demonstrated later in this chapter, there were key differences in how the national newspapers framed the story of sexual assault.

Not surprisingly, the majority of the stories that appeared in the local papers in 2002 were also news stories. Slightly more than 73% of the news items about sexual assault were news stories in the local papers (773 stories). Also not surprisingly, there were far fewer in-brief type stories regarding sexual assault compared to the national papers. In-brief news stories locally made up only 19% of the overall coverage (200 stories). The in-brief stories in the national papers contained stories from across the country and were used as both filler as well as a way of presenting regional stories and information. In local papers, the requirement to show what is happening across in the country is not as strong and the focus becomes on local or provincial news rather than on what is occurring in other parts of Canada.

There were slightly more sexual assault stories that featured sports figures than in the national papers, but again this is not surprising given that the national papers' focus is not on covering sports. There were seven sport stories about sexual assault in the *Times Colonist* (2.8% of stories), five in the *Free Press* (2.5%), three in the *Toronto Star* (1.0%) and four in the *Halifax Chronicle Herald* (1.0%). The *Star* ran significantly more sports in brief stories about sexual assault with 11 stories (3.7% of coverage), while the *Times Colonist* had two (.8%) and the *Free Press* had five (2.5%).

Table 4.6: Type of story by local newspaper

	Victoria T.C.	***Winnipeg F. P.***	***Toronto Star***	***Halifax C.H.***	**Total**
News Story	207	133	201	232	773
% within paper	83.1%	65.5%	68.4%	75.3%	73.3%
In Brief	21	52	73	54	200
% within paper	8.4%	25.6%	24.8%	17.5%	19.0%
Editorial	2	0	1	3	6
% within paper	.8%	.0%	.3%	1.0%	.6%
Columns	8	6	4	4	22
% within paper	3.2%	3.0%	1.4%	1.3%	2.1%
Entertainment	2	2	1	8	13
% within paper	.8%	1.0%	.3%	2.6%	1.2%
Feature	0	0	0	3	3
% within paper	.0%	.0%	.0%	1.0%	.3%
Sports	7	5	3	4	19
% within paper	2.8%	2.5%	1.0%	1.3%	1.8%
Sports brief	2	5	11	0	18
% within paper	.8%	2.5%	3.7%	.0%	1.7%
Total	**249**	**203**	**294**	**308**	**1054**
% within paper	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Again, much like the national papers, there were few editorials or columns written about sexual assault and again the majority of those contained a rape myth. Victoria and Halifax had the greatest amount of editorial or column space dedicated to the subject, with the *Times Colonist* running two editorials (.8% of its stories) and eight columns and the *Chronicle Herald* running three editorials (1.0% of its stories) and four columns (1.3%). The *Winnipeg Free Press* ran six columns (3% of its stories) while the *Toronto Star* ran one editorial (.3% of its stories) and 4 columns (1.4% of its stories).

Fairclough at the *Halifax Chronicle Herald* suggests that the brevity of the stories in the newspapers is in fact due to the small amount of information being made available by police and by court bans on publication of names.[52] This does not appear to be an issue endemic to Canadian newspapers. Research done by Cynthia Carter, who studied sexual violence in six British daily tabloid newspapers in 1994, determined that most of the news about sexual violence was presented in short pieces, fewer than 300 words. The result is that "such short stories are largely incapable of offering the reader more than a severely limited description of the crime."[53] As a result, Carter argues more "spectacular forms of sexual violence … stand out as truly 'extraordinary'" while the "lesser" sexual assault crimes become almost mundane.[54]

As stated earlier, the in-brief stories analyzed in this study contained little detail regarding sexual assault. Instead, they relied on the episodic news frame. Episodic news frames are frames that outline the basic information about a story, for example, who, what, when or where, but do not provide any contextual information. Shanto Iyengar suggests that the media reliance on an episodic news frames means that government can eschew its responsibility for failure in public policy outcomes, because the media's representation of a policy issue is quite one-dimensional and often individualizes the problem or issue.[55] Thus, a reliance on in-brief stories in English Canada's newspapers shows that the print media do not provide a contextual understanding of the enormity of sexual assault violence against women nor do they affix blame for the failure of sexual assault reform.

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[52] Ian Fairclough is the Valley Bureau reporter for the *Chronicle Herald* and works in the Annapolis Valley office.

[53] Cynthia Carter, "When the 'extraordinary' becomes 'ordinary': Everyday news of sexual violence" in Cynthia Carer, Gill Branston and Stuart Allan eds., *News, Gender and Power* (London: Routledge, 1998) 219 at 225.

[54] Ibid.

How Was The Story Framed?

It becomes clear that some stories frame news differently than others. Stories were coded to determine the way the story was framed. As Robert Hackett and Yuezhi Zhao suggest, framing devices can and are supported in the practise of so-called objective journalism. when there really is no such thing. Indeed, "objectivity and its components such as fairness and balance are vague concepts" which are regularly negotiated and contested by social groups.[56] Hackett and Zhao argue that the media

> can cumulatively establish and amplify particular frames without abandoning the formal criteria of objectivity – factual accuracy, attribution of explicit opinion, counterbalancing quotations – in individual reports. Indeed, such objectivity markers can help to disguise or render unseen the dominant frame.[57]

Further, the frame can be hard to recognize if it mirrors society's master narrative. Thus, in framing sexual assault, the media potentially align themselves with the myths and stereotypes that underpin the legal and societal master narratives regarding sexual violence.

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[55] Shanto Iyengar and Adam Simon, "News Coverage of the Gulf Crisis and Public Opinion: A study of agenda setting, priming and framing" (June 1993) 20:3 Communication Research. 365 at 365.
[56] Robert A. Hackett and Yuezhi Zhao, *Sustaining Democracy? Journalism and the Politics of Objectivity* (Toronto: Garamond Press, 1998) at 89.
[57] Ibid at 119.

The categories of framing utilized in this study were law and order, science, societal, war crime, injustice, scandal, economic, entertainment and treatment. The law and order frame was used when the stories dealt with the machinations of court and justice. The science frame defined sexual assault from the perspective of science, and more specifically the inroads made in DNA research as well as the use of psychiatry in sexual assault. The war crime frame was used mostly in stories from outside Canada and the United States in reference to rape as a war crime. The injustice frame was defined a stories that left readers with reasons to be "angry with somebody"[58] and was used in stories in which there is a perception that someone has been unfairly treated. This was used in stories in which a man or woman has been unjustly jailed for sexual assault or when an perpetrator was freed on a technicality. The societal frame was used in stories that examined the cause of sexual violence or the incidence of sexual assault. The scandal frame emphasized a sense of scandal. For example, stories regarding the settlement discussions in relation to residential schools or the sexual assaults of young parishioners by priests were often framed as a scandal. Also included were stories in which a Canadian MP was criticized for her involvement in the sexual assault case against the son of then Prime Minister Jean Chrétien. An economic frame was defined as a story that talked about the cost of settling rape claims. An entertainment frame was seen as existing in stories that included entertainment figures. However, it was also seen as being used in stories that treated rape as entertainment by discussing the sexual assault in jocular terms.

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[58] William Gamson, *Talking Politics* (Cambridge: Cambridge University Press, 1992) at 34.

Finally, the treatment frame was defined as stories that highlighted medical and psychological treatments for individuals who were sexual offenders.

Overall, the majority of the stories that appeared in 2002 contained a law and order frame (61.6% or 944 stories). The reliance of newspapers on the law and order frame to talk about sexual assault suggests that sexual violence is under institutional control and that the crime is being dealt with in an appropriate way by state-sanctioned actors such as the police and the Crown prosecutors. As I will discuss in greater detail in the next chapter, the reliance on law and order sources that can be viewed as reliable and credible potentially strengthens the media effect on public attitudes about rape. Alternative frames such as a societal frame that examines the prevalence of sexual assault are missing or underrepresented. A comprehensive understanding of sexual violence is missing in most of what was written in 2002. None of the stories wrote about the statistical prevelence of sexual assault and few talked about the low reporting rates and the depressingly low conviction rates for these crimes.

The law and order framing of sexual violence leaves "societal influences unquestioned"[59] and suggests a reliance of Canada's English Canadian newspapers on what Shanto Iyengar calls an episodic news frame rather than a thematic analysis. Iyengar suggests that the episodic news frame

> takes the form of a case study or event-oriented report and depicts public issues in terms of concrete instances .... The thematic frame, by contrast places public issues in some more general or abstract context and takes the

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[59] Ray Surrette, *Media, Crime and Criminal Justice: Images and Realities.* 2nd Edition. (Belmont: Wadsworth Publishing, 1998) at 82.

> form of a "takeout," or "backgrounder," report directed at general outcomes or conditions.[60]

Episodic reports are generally hard news stories that focus on answering the "who, what, when, where and how" aspects of the story rather than the "why."[61] Given that nearly a quarter of the news stories in 2002 were short reports or "in brief" stories on sexual violence and given that there were few feature-length stories that looked at the societal effects of sexual assault, it would be fair to suggest that the stories studied featured an episodic approach.

Surette writes that by ignoring societal influences on crime, the media only cover half the news story.[62] Indeed, as Sophia Voumvakis and Richard Ericson argue in their analysis of the news coverage of attacks on women in Toronto, the dominant culture which "shapes particular attitudes toward women, which permeates the way women are portrayed, and which may ultimately contribute to attacks on women, remains largely unquestioned and unexamined."[63] Nationally, slightly more than half of the news stories about sexual assault that appeared in both national newspapers relied on this law and order frame (52.5%). In the *Post* 48.6% of the stories (120 stories) were considered to have a law and order frame. In the *Globe*, 56.7% (131 stories) were framed that way. The *Post* appeared to rely on the injustice, scandal and entertainment frame more often than the *Globe* did, suggesting that the *Post* may have been a relied on the news values of novelty and entertainment in determining what stories to cover.

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[60] Shanto Iyengar, *Is Anyone Responsible? How Television Frames Political Issues.* (Chicago: The University of Chicago Press, 1991) at 14.

[61] While Iyengar's work was done for television news, it becomes clear that the same concepts can be applied to newspaper reporting.

[62] Ray Surrette, *Media, Crime and Criminal Justice: Images and Realities.* 2nd Edition. (Belmont: Wadsworth Publishing, 1998) at 82.

[63] Sophia Voumvakis and Richard Ericson, *News Accounts of Attacks on Women: A Comparison of Three Toronto Newspapers.* (Toronto: Centre of Criminology, 1984) at 44.

Table 4.7: Story frame by national newspaper

	National Post	*Globe and Mail*	**Total**
Law and Order	120	131	251
% within paper	48.6%	56.7%	52.5%
Scandal	62	48	110
% within paper	25.1%	20.8%	23.0%
Injustice	36	28	64
% within paper	14.6%	12.1%	13.4%
Entertainment	11	5	16
% within paper	4.5%	2.2%	3.3%
Societal frame	7	6	13
% within paper	2.8%	2.6%	2.7%
Science frame	3	7	10
% within paper	1.2%	3.0%	2.1%
War Crime	4	3	7
% within paper	1.6%	1.3%	1.5%
Economics	3	1	4
% within paper	1.2%	.4%	.8%
Treatment	1	2	3
% within paper	.4%	.9%	.6%
Total	**247**	**231**	**478**
% within paper	**100%**	**100%**	**100%**

The second most prevalent frame for sexual assault stories in the national papers was the scandal frame. It appeared in almost one quarter of the national news stories in 2002 (23% or 110 stories). In the *Post* 25% (62 stories) of the stories were coded as employing a scandal frame, while the *Globe* had slightly fewer at 20.8% (48 stories). In many of these stories the word scandal was used to describe the sexual assault allegations. Recall that stories are considered framed as a scandal if they covered the residential school abuse, the abuse of children by priests, the sexual assault of boys in the Maple Leaf Gardens and some of the Michel Chrétien sexual assault stories. Chretien had been charged with sexual assault of an 18-year old woman in Yellowknife.[64] The story was coded as having a scandal frame if its main focus was the actions of Ethel Blondin-Anderson a Yellowknife MP. Both newspapers suggested that Blondin-Anderson had contacted the mother of Chrétien's victim in a bid to get her to "dissuade her from making a complaint to police."[65] In the Chrétien case then, the story switched from the sexual assault to a scandal over political interference in the investigation of sexual assault.

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[64] Jill Mahoney "Mother says daughter told not to go to PM's son's flat" *Globe and Mail* (29 July 2002) A1.

Two editorials in the *Globe* framed the sexual assault allegations within the Catholic Church as a scandal. In both of these editorials, the Catholic Church is viewed as coming up short in its dealing with sexual assault accusations against its priests. Both denounced the Church decision to keep reports of suspected sexual abuse quiet. In the editorial that ran on April 27th, the decision by the Catholic Cardinals to overlook the crimes of "one-time abusers" is also denounced.[66] Thus, in these editorials, the scandal is that the Church kept its knowledge about sexual offenders within the Church quiet.

The *Post* also framed the sexual assaults of congregants within the Catholic Church as a scandal in four of its columns, which were written by American columnists. One of the columns by Stuart Reid asserted that the scandal is serious because "[e]ven if, as I suspect, many of the weeping 'victims' of pervert priests are on the make there is still compelling evidence that very bad things have been going on, and are still going on."[67] This is a classic example of the myth that people lie about their sexual victimization, particularly if it means that they can financially benefit from those lies. Reid's column also serves as an example of the myth that pedophiles are homosexual. He suggests that there "is a flourishing gay culture among Catholic priests in the United States. There have always been homosexual priests, of course, many of them very good men. What is new is that such priests now claim the right to indulge their preferences."[68] This also conflates sex with rape and suggests that the sexual assault occurred as a natural extension of lust.

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[65] Ibid.

[66] Editorial "Cardinals' compromise comes up short" *Globe and Mail* (27 April 2002) A18.

[67] Stuart Reid "Alter boys pay the price of Vatican II" *The National Post* 15 April 2002. A14.

Another *Post* column by Robert J. de Souza talked about the zero-tolerance policy adopted by American cardinals in April of 2002. De Souza wrote that it is the cardinals' belief that "a culture of dissent breeds moral laxity. Specifically, that refusal by some theology professors and seminary faculties to accept Church teachings on sexuality, especially priestly celibacy and homosexuality, produces the environment in which sexual misconduct becomes more than just a rare occurrence."[69] This is an example of the myth that rape does not actually harm the victim. Calling a sexually violent act sexual misconduct misrepresents the trauma that occurs. Additionally, the notion that sexual violence occurs in rebellion to celibacy conflates sexual assault with sex. The underlying assumption is that if priests were allowed to have a "normal" outlet for their sexual tension, sexual assaults within the Church would not occur. As well, the correlation between these attacks and homosexuality is an example of the myth that pedophiles are homosexual, which is a misrepresentation of the crime of sexual assault and it again conflates the idea of rape with sex. The myth suggests that male on male sexual violence must be a sexual act (and thus homosexual) rather than an act of violence.

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[68] Ibid.

[69] Raymond J. de Souza "In Vatican City: Restoring the church's foundation" *The National Post* (26 April 2002) A18.

Michael Kelly took aim at the proposal from the United States conference of Catholic Bishops' decision to allow a priest to continue in his job duties if he is not diagnosed as a pedophile or if he has only committed "one act of sexual abuse."[70] In this *Washington Post* column reprinted in the *National Post* on June 5th Kelly criticized the institutional culture that allowed sexual assaults by priests to continue:

> We are speaking of men such as Boston's Archbishop Bernard Cardinal Law, who stands, naked before God, for his years of protecting and hiding and promoting priests believed to be guilty of chronic, monstrous crimes of sexual depravity against children entrusted to the church's care.

As Kelly pointed out, the priests who abuse children should be prosecuted, but so should the "men who let the men rape boys."[71] Kelly's column expresses the outrage many feel about the occurrences in the Catholic Church and his analysis provided an alternative interpretation of the event to the Bishops. Because he was not forced into an artificial paradigm of journalistic objectivity, Kelly could critique the Catholic Church's decisions without having to provide the Church's perspective.

Charles Krauthammer offered a similar condemnation in a column that appeared two days later in the *Post.* He also criticized Bishop Bernard Law's reaction in these cases, suggesting that the "when the first child was abused by a priest – his superiors could only see the need for therapy and ministry."[72] Krauthammer called the fact that Bishop Law never contacted police in situations of abuse a violation of the "elementary notions of civil society." Like the Russell column, Krauthammer challenged the Church's position on its responsibility regarding allegations of abuse.

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[70] Michael Kelly "What about the men who let the men rape boys?" *The National Post* (05 June 2002) A14.
[71] Ibid.
[72] Charles Krauthammer "The Church and citizenship on Earth" *The National Post* (08 June 2002) A22.

The injustice frame was seen in 13.4% of the stories in the *Post* and the *Globe* and these were stories that left the coder with the feeling that individuals had been treated unfairly. The injustice frame was used in 13.4% of the stories (64 stories): in 14.6% of the *Post* coverage (36 stories) and in 12.1% of the *Globe* (28 stories). In the *Post*, a third of the stories that were framed as an injustice dealt with stories about men who had been wrongfully accused or convicted of sexual assault (12 stories). In the *Globe,* half of the injustice framed stories (14 stories) were about wrongful convictions or accusations against men.

In both the *Post* and the *Globe*, the injustice frame was used in the context of the coverage of the Gerald Regan case. Regan was the Nova Scotia Premier who had been accused of sexually assaulting women in the 1970s. In a *National Post* column that ran on February 18th, George Jonas suggested that Gerald Regan had fallen victim to a feminist justice system that "cares mainly about empowering women, and that in Canada's gender wars an allegation of a sexual nature by any woman, no matter how minor, unsupported, or distant in time, reduces any man to a terrorist suspect…."[73] In Jonas's opinion, the Regan case was full of prosecutorial irregularities and an example of matriarchal justice. The worldview in this column presents men as being unfairly accused of sexual assault. Jonas used no statistical information to validate his logic. Instead, he created the perception that all men should live in fear of false accusations.

The second column suggested that the Supreme Court decision in Regan should cause concern for all Canadians who rely on our justice system to protect us from "overzealous police or governments."[74] The anonymous column places Regan in the same category of other men who have been wrongfully convicted of crimes "because of improper police investigations or criminal prosecutions."[75] In both commentaries, it is clear that the injustice frame invites the reader to become angry at the justice system for wrongfully prosecuting the former premier on questionable evidence and creates an artificial panic by suggesting that, if Regan can be prosecuted in an overzealous manner, so can the ordinary man. Thus, in the *National Post*, Regan's courtroom controversies appeared in the commentary section without the requirement for objectivity or balance. For the most part, these columns act as a warning to other men who may also find themselves at risk of being accused of sexual assault based on allegations that they "copped a feel" something that apparently was considered acceptable behaviour by men twenty years ago, but is no longer acceptable today.[76]

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[73] George Jonas "Regan a victim of matriarchal justice" *The National Post* (18 February 2002) A16.

In a *Globe* column, the Regan case was also framed as an injustice. In the first paragraph of this column, Ian Hunter made it clear that he does not feel sorry for "retired Liberal hacks" like Regan who have forced "attention on girls young enough to be their daughter."[77] However, as Hunter said, "injustice remains injustice."[78] Hunter disagreed with Supreme Court Justice Louis LeBel who asserted that victims of sexual assault should be encouraged to "trust the system" and wrote instead that "the reason why the presumption of innocence exists is precisely because fairness to the accused overrides any consideration of public policy."[79] Hunter's comments represent the tension between those who have been trying to reform the sexual assault laws to make them more victim friendly and those who represent the accused in court proceedings.

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[74] Comment "Justice is not a competition" *The National Post* (28 March 2002) A18.
[75] Ibid.
[76] George Jonas "Regan a victim of matriarchal justice" *The National Post* (18 February 2002) A16.
[77] Ian Hunter, "Even nasty men deserve a fair trial" *The Globe and Mail* (27 February 2002) A17.
[78] Ibid.

The second column that was framed as an injustice was a Margaret Wente piece that appeared on August 1, 2002. Wente talked about the false accusations made by a group of children in a Martensville babysitting service. Nine people were initially charged with numerous charges of sexual assault and there was at one point suggestions of the involvement of a satanic cult. All the charges were later dropped and one of the individuals falsely accused, Saskatoon police officer John Popowich, successfully sued the province of Saskatchewan for malicious prosecution. Wente suggested in her column that the Martensville case is endemic of a false panic that is being "repeated throughout North America."[80] As she pointed out, Popowich "is among the lucky ones. Unlike many of the men and women caught up in the child abuse hysteria across North America, he never did do jail time."[81] Wente never backs her assertions that false child abuse accusations are being made *en masse* in Canada or the United States. She failed to provide any statistics regarding the percentage of sexual assault cases that are in fact false (as opposed to unfounded). Yet her column presents the world view that hysteria about child abuse is causing innocent men to be persecuted. What is particularly remarkable is the fact that this column appeared at a time when the Catholic Church was facing widespread criticism for failing to act upon accusations of child abuse. In that context, is

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[79] Ibid.
[80] Margaret Wente "Satanic panic attack" *Globe and Mail* (01 August 2002) A21.
[81] Ibid.

Wente suggesting that the widespread "hysteria" of "false child abuse accusations" includes the victims of the Catholic Church scandal?

Both the columns by Hunter regarding Regan and Wente's analysis of the Martensville case utilized the injustice frame that repeats the stereotype that innocent men are being falsely accused of sexual assault, resulting in immense damage to their reputations. Wente talked at length about Popowich's "nightmare" in getting his name cleared.[82] Yet, there is no corresponding outrage about the failure to prosecute sexual assault offenders in legitimate cases.

Two *Globe* editorials contained an injustice frame in that they gave the readers a "reason to be angry at somebody"[83] One detailed the miscarriage of justice that resulted in Stephen Truscott's conviction for the rape and murder of Gail Miller when Truscott was only 14-years old. The conviction was based on evidence given by a pathologist who later tried to change his finding but was prevented from doing so by the Crown.[84] The worldview presented in this editorial is that men are wrongly prosecuted for rape and murder and this corrupt system has robbed men of both their innocence and their reputations. This editorial prompts the reader to get angry at the justice system.

In an editorial published on August 26th, it is clear that the parole system is the reason why the reader should be angry. It suggested that the parole system artificially binds a "trial judge's hands in setting an eligibility date for parole" and that limits on a judge's discretion "increase the chance of people being set free when they still pose a risk to society."[85] The context of this discussion was the sexual assault of a 76-year old grandmother in a Mississauga senior citizens' building. Originally, David Cheddesingh was sentenced to life for the crime with parole eligibility in 8 years. In August, 2002, the Ontario Court of Appeal raised his eligibility for parole to 10 years. According to the editorial, "(t)en years is not enough in the circumstances. Rehabilitation, punishment and society's need to deplore violent crime count for little next to the main reason to seal Mr. Cheddesingh away: protection of the public."[86]

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[82] Ibid.

[83] William Gamson, *Talking Politics* (Cambridge: Cambridge University Press, 1992) at 34.

[84] Editorial "Steven Truscott and the pursuit of justice" *The Globe and Mail* (25 January 2002) A18.

What is interesting about the injustice frame used in both *Globe* editorials is that it focuses on the problems with the system, rather on the bigger problem of systemic violence against women and children, and it ignores the fact that many women have something to be angry about when it comes to sexual assault. Instead, in both of these editorials, the injustice frame applies to a system that is set apart from the patriarchal society in which it operates. What is also interesting is that the injustice that is rightly felt by a man who has be wrongfully prosecuted for sexual assault is deemed more important than the voices of women who have seen their perpetrator walk free, as in the Gerald Regan case.

News stories that were viewed as having an injustice frame also dealt with the failures of the system to convict sexual assault offenders. For example, in the *Post*, a story that contained the injustice frame detailed the shooting of a priest by a 26-year old man. The man had told police that he had been sexually assaulted by the priest, but "the allegations were never followed up on as prosecutors believed there was insufficient evidence to secure a conviction."[87] In the story, the man's mother is quoted as saying that "All he wanted was an apology."[88]

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[85] Editorial "Freedom to delay parole" *The Globe and Mail* 26 August 2002) A12.

[86] Ibid.

Other frames for stories about sexual assault fell below 5%. They included 16 stories that were framed as entertainment as they detailed sexual assault allegations against high profile entertainers or sports figures, such as Celine Dion's husband, Rene Angelil or Mike Tyson or stories that treated sexual assault like it was entertainment. An example of a paper treating sexual assault as if it was entertainment was a *National Post* article that ran in January of 2002. In this story, a man who walked up to men and women and hugged and kissed them was dubbed the "crazy kisser." The *Post* said that "the kisser approached his victims on the street and struck up a conversation. He offered to shake hands, then pulled his victims toward him, hugging them and kissing them on the lips. The courts consider the actions to be sexual assault."[89] Suggesting that it is the courts that consider this to be a sexual assault implies that the newspaper reporter may not agree. Instead of being viewed as a frightening occurrence for a woman, it is downplayed as being the actions of a crazy, but relatively harmless, man.

Stories that looked at the social dimension behind sexual assault also fell below 5% of the overall coverage in the national papers. In the *Post*, the social frame was used in 7 stories

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[87] Arminta Wordsworth "Man who shot priest wanted sex abuse apology: 'State of mind snapped': Media reports about pedophile priests described as trigger" *The National Post* (16 May 2002) A15.
[88] Ibid.
[89] Canadian Press "Toronto police nab 'crazy kisser' suspect" *The National Post* (24 January 2002) A07.

(2.8% of its coverage) and in the *Globe* it appeared in just 6 stories (2.7% of its coverage). An example of the societal frame was contained in a *Post* article that pointed out that "sexual assaults on young victims have been declining." The article went on to describe the abductions and rapes of boys and girls in Canada, the US and the United Kingdom. So, while the statistics may be telling one story, these articles play up the anomalies of random attacks and again, demonstrate the reliance on the media on novelty as a news value.[90]

In the *Globe*, stories that used a social frame did so in reaction to specific cases. For example, one story discussed how the Gerald Regan case exemplified the difficulties of prosecuting sexual assault cases.[91] Another, previously described, talked about Michel Chrétien's background.[92] One story described the profile of priest sex abusers[93] and two discussed women's safety in taxi cabs,[94] after three women in Toronto reported being sexually assaulted by a cab driver.

The science frame appeared in 2.1% of the stories overall (in 3 stories in the *Post* and in 7 stories in the *Globe*). Stories were coded as containing a science frame when the news article talked about the psychology of sexual assault or the use of DNA in capturing rapists. For example, a story in the *Globe* described how the date rape drug gammahydroxybutyrate works,[95] another talked about the solving of a decade-old rape case through the use of DNA,[96] and one detailed profilers in the Ontario Provincial Police.[97] In the *Post*, stories that were considered to have a science frame included a story that linked two sexual assaults that occurred 12 years apart,[98] another story that talked about how a dog's DNA was used to convict a rapist in California,[99] and finally, the discovery of a rare sleep disorder that "causes people to commit violent sexual acts while sound asleep."[100]

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[90] Anne Kingston "The summer of lost girls" *The National Post* (27 August 2002) A15.

[91] Editorial "The court, the Crown and Gerald Regan" *The Globe and Mail* (15 February 2002) A20.

[92] Lawrence Martin "Any parent's nightmare: 'We will continue to stand with him'. In politics, he can be cold and calculating. When it comes to his troubled son, Jean Chrétien shows what a good father is made of, say biographer" *The Globe and Mail* (30 July 2002) A11.

[93] Michael Valpy "Do priests who abuse minors share personality traits?" *The Globe and Mail* (02 March 2002) A14.

[94] Gay Abbate "Assault reports raise safety issue for women in taxis" *The Globe and Mail* (11 March 2002) A14 and Kim Honey "Women must be on guard in taxicabs, police say. Three reports so far this year of assaults on passengers have prompted warnings" *The Globe and Mail* (12 March 2002) A20.

The war crime frame, including stories that likened sexual assault to an act of war was used in only seven stories in 2002 (1.5% of the total coverage), while stories that put an economic frame on sexual assault appeared in only four stories in 2002 (.8% of the total coverage). These stories referred to the cost of settling residential school abuse claims with the federal government. Finally, the treatment frame was used in only three stories in total or .6% of the coverage.

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[95] Ingrid Peritz "How GHB works" *The Globe and Mail* (20 September 2002) A5.

[96] Graeme Smith "DNA database leads to arrest in 1991 attack" *The Globe and Mail* (04 October 2002) A19.

[97] Stevie Cameron "Shock troops in the war on evil: Who's the best at tracking down the truly sinister – serial killers and sexual predators?" *The Globe and Mail* (25 May 2002) F7.

[98] Gus Kim "DNA links two sexual assaults, 12 years apart" *The National Post* (11 December 2002) A21.

[99] Phillippe Shepnick "Dog's DNA puts bite on would-be robber: Landmark legal case" *The Globe and Mail* (26 March 2002) A17.

[100] Mary Vallis "Brain 'hiccups' blamed for violent sex while asleep" *The National Post* (28 March 2002) A04.

Table 4.8: Story frame by local newspaper

	Victoria T.C.	*Winnipeg F. P.*	*Toronto Star*	*Halifax C.H.*	**Total**
Law and Order	140	150	211	192	693
% within paper	56.2%	73.9%	71.8 %	62.3%	65.7%
Scandal	58	24	40	72	194
% within paper	23.3%	11.8%	13.6%	23.4%	18.4%
Injustice	36	23	28	26	113
% within paper	14.5%	11.3%	9.5%	8.4%	10.7%
Entertainment	8	5	7	8	28
% within paper	3.2%	2.5%	2.4%	2.6%	2.7%
Societal frame	4	1	4	4	13
% within paper	1.6%	.5%	1.4%	1.3%	1.2%
Science frame	0	0	0	1	1
% within paper	0.0%	0.0%	0.0%	.3%	.1%
War Crime	2	0	4	0	6
% within paper	.8%	0.0%	1.4%	0.0%	.6%
Economics	0	0	0	5	5
% within paper	0.0%	0.0%	0.0%	1.6%	.5%
Treatment	1	0	0	0	1
% within paper	.4%	0.0%	0.0%	0.0%	.1%
Total	**249**	**203**	**294**	**308**	**1054**
% within paper	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

The local newspapers relied more heavily on the law and order frame than did the national newspapers. Slightly more than 65% of the local stories were framed as law and order (65.7% or 693 stories) compared to the national newspapers at 52.5% of their stories (251 stories). The *Free Press* and the *Toronto Star* had the highest percentages for stories framed as law and order with 73.9% of the *Free Press* (150 stories) and 71.8% of the *Star's* stories (211 stories) framed that way. Again, this suggests that the active media relations departments of the police departments in both Toronto and Winnipeg had an impact on the way sexual assault crimes are reported in those cities.

The national papers also seemed to rely on the scandal frame more often than the local papers. Nationally, the scandal frame was applied to 23% of the national stories, while it was used in only 18.4% of the local news stories (194 stories). Victoria and Halifax had higher percentages of stories framed as a scandal (23.3% or 58 stories and 23.4% or 72 stories respectively). Winnipeg had the least at only 11.8% of the stories (24 stories) and Toronto had 13.6% of its stories (40 stories) framed as a scandal. This is surprising given that the Pope visited Toronto in the summer of 2002 during the height of the sexual abuse scandal with-in the Catholic Church.

Just over 10% of the local stories (10.7% or 113 stories) were framed as injustice, a percentage that was again lower than the national newspapers. The *Victoria Times Colonist* used the injustice frame the most of all the local papers with 14.5% of its stories (36), while the *Halifax Chronicle Herald* used it the least at 8.4% of its stories (26 stories). The injustice frame was used in 9.5% of the *Star* stories (28) and in 11.3% of the *Free Press* reports (24). In the *Toronto Star* more than 61% of the stories framed as injustice were written in regards to innocent men going to jail. By comparison, only 31% of the Halifax stories framed as injustice were written about innocent men going to jail, and only 30.6% in Victoria and 26% in Winnipeg. As indicated earlier, stories were coded as being framed as injustice when there was a sense that the system did not work, when either an innocent man was being jailed for sexual assault, or when the victims were being unfairly treated.

A column in the *Times Colonist* written by Jody Paterson is an example of this injustice frame. In it, she discussed the stay of charges against a man originally charged with murdering a teenager in 1991. Terry Arnold had originally been found guilty until a new trial was ordered and the charges were stayed. Paterson writes that Arnold "has a nasty history, including a four-year jail sentence in Newfoundland for sexually assaulting four girls ages 10 to 15. He once told the National Parole Board of other sexual assaults that he's never been charged with."[101] Paterson labelled him "a charming psychopath, a serial rapist."[102] What is interesting about the Paterson column is while it is framed through an injustice lens, it is much subtler in what it pinpoints as the problem. If one of the purposes of the injustice frame is to provide an outlet for readers' anger, the problem in this column is not viewed as being the justice system, nor is it women who are crying rape out of revenge. Instead, Paterson points to the injustice that Arnold has been "pegged as a murderous swine who slipped through the cracks."[103] She suggested that while a serial rapist and potential serial murderer is free to go, it is an important concession because "few rights are as important as being innocent until proven guilty."[104] So, while Paterson concedes the system is flawed, it still works and thus, Arnold, who is "off the hook," becomes the target of anger.[105]

Unlike the national columns that saw the Gerald Regan case as an example of the injustice against men, the *Chronicle Herald* framed the injustice in a different way. One of its editorials talks about the division in the Supreme Court when it came to determining if Regan's constitutional rights were violated. The editorial concluded that "allegations of sexual assault, and of abuse of trust or authority in such cases, are not trivial matters. And only the clearest case of procedural unfairness can outweigh society's interest in having such charges adjudicated in court."[106] This editorial is framed from an injustice perspective, but unlike other stories written about this case, the injustice is felt for the victim, rather than Regan's.

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[101] Jody Paterson "Police have reasons to worry about Arnold being free" *Victoria Times Colonist* (03 April 2002) A3.
[102] Ibid.
[103] Ibid.
[104] Ibid.
[105] Ibid.

The editorials printed in the *Halifax Chronicle Herald* stand in stark contrast to the rather inflammatory columns in both the *Globe* and the *Post* which suggested Regan had been victimized by "matriarchal justice"[107] or treated unjustly.[108] The focus in the Halifax newspaper, with editors who are arguably closer to the story than national columnists, appeared to be on the women -- the editorial staff's potential neighbours, friends or wives. There is a sense that the parochial nature of the sexual assault case meant that the victims' perspective was heard.

As in the national papers, the remainder of the frames fell below 5%. Stories that were framed as entertainment made up 2.7% of coverage overall (28 stories). The science frame was used in only one story (.1% of stories overall) which ran in the *Halifax Chronicle Herald.* Only 1.2% of the local stories were framed through a societal lens (13 stories). The war crime frame was used in just six stories (.6%) and the economic frame was used in only five stories (.5%). The treatment frame was used just once and that was in a story which ran in the *Victoria Times Colonist* (.4%).

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[106] Editorial "A court divided" *Halifax Chronicle Herald* (18 February 2002) B1.

[107] George Jonas "Regan a victim of matriarchal justice" *The National Post* (18 February 2002) A16

[108] Ian Hunter "Even nasty men deserve a fair trial" *The Globe and Mail* (27 February 2002) A17.

Who Wrote the Story?

The newsrooms that participated in interviews for this study indicated that their demographic make up was evenly divided between female and male reporters, while upper management positions such as editor and publisher saw the division move to about 60% male and 40% female. In order to determine if women or men were more likely to write stories about sexual assault, I coded the reports to determine the sex of the reporter listed. What was surprising was the high number of stories written with no by-line (729 stories or 47.6%) in all the newspapers. Of those stories in which the reporter's sex was known, 28.2% (432 stories) were written by men and 20.2% (309 stories) were written by women. There were 62 stories (4%) in which the sex of the reporter was not clear.

Table 4.9: Sex of reporter by newspaper

Sex of reporter	**Frequency**	**Percent**
Male	432	28.2%
Female	309	20.2%
Unknown	62	4.0%
No By-line	729	47.6%
Total	**1532**	**100.0%**

Nationally, there was also a high percentage of the news stories (41.6%) that were written without a reporter's by-line. This suggests two things about how sexual assault is reported in the national newspapers. First, sexual assault stories tend to be shorter stories and thus are not long enough or in-depth enough to warrant a by-line. Indeed, as indicated earlier in this chapter, over 31% of the stories in the *Post* and the *Globe* were "in-brief" stories, which were quite short providing little detail. Second, many of the stories about sexual assault were provided by news gathering agencies such as Associated Press and Canadian Press or in the case of the *Post* from its member newspapers. This is one way that news organizations can save money in the news production – by utilizing cooperative news agencies or in the case of the *Post,* its affiliates to fill their newspaper pages.[109] This suggests that both national papers relied on wire stories for information about sexual assault.

Table 4.10: Sex of reporter by national newspaper

	National Post	Globe and Mail	Total
Male % within paper	81 32.8%	65 28.1%	146 30.5%
Female % within paper	45 18.2%	61 26.4%	106 22.2%
Not Known % within paper	10 4.0%	17 7.4%	27 5.6%
No By-line % within paper	111 44.9%	88 38.1%	199 41.6%
Total **% within paper**	**247** **100.0%**	**231** **100.0%**	**478** **100.0%**

In the *Globe and Mail,* the number of male reporters covering sexual assault was only slightly higher than female reporters (28.1% to 26.4% respectively); however, the same cannot be said about the *National Post.* More than 30% of the stories appearing in the *Post* had a male writer (32.8% or 81 stories), while fewer than 20% of the stories were written by a female (18.2% or 45 stories). This does suggest that there may be a difference in the demographic make up of the newsroom or that men were more likely than women to cover crime stories at the *Post,* however, because the newspaper did not respond to my requests for an interview, this is a question that remains unanswered.

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[109] Mary Vipond, *The Mass Media in Canada,* 3rd ed. (Toronto: James Lorimer and Company, 2000) at 68-69 and Interview of Bob Cox, National Editor *Globe and Mail* (29 October 2004) in person at *The Globe and Mail* cafeteria in Toronto.

Table 4.11: Sex of reporter by local newspaper

	Victoria T.C.	*Winnipeg F. P.*	*Toronto Star*	*Halifax C.H.*	Total
Male % within paper	45 18.1%	78 38.4%	77 26.2%	86 27.9%	286 27.1%
Female % within paper	40 16.1%	22 10.8%	70 23.8%	71 23.1%	203 19.3%
Unknown % within paper	11 4.4%	3 1.5%	11 3.7%	10 3.2%	35 3.3%
No By-line % within paper	153 61.4%	100 49.3%	136 46.3%	141 45.8%	530 50.3%
Total **% within paper**	**249** **100.0%**	**203** **100.0%**	**294** **100.0%**	**308** **100.0%**	**1054** **100.0%**

Local papers had an even higher percentage of stories with no by-line, with slightly more than half of the stories written without a by-line (50.3% or 530 stories). They ranged from 61.4% of the stories in the *Times Colonist* (153 stories) to 45.8% in the *Chronicle Herald* (141 stories). This seems to be counter-intuitive given the national papers predisposition toward the use of "in brief" stories. As such, I was expecting the national papers would have more stories without a by-line than the local papers. A possible explanation for the high percentage in the *Times Colonist* could be the size of the newspaper itself. Its circulation numbers are the lowest in the papers surveyed and it serves a relatively smaller municipal area than any of the other local papers, thus its newsroom and its operating budget may be smaller than the other papers under study.

In Victoria, 18.1% (45 stories) were written by male reporters and 16.1% (40 stories) were written by female reporters. The Toronto paper almost evenly split its stories between male and female reporters. Men wrote 26.2% (77 stories) of the stories while women wrote 23.8% (70 stories). In Halifax, 27.9% (86 stories) were written by men and 23.1% of the stories (71) were written by women. While the ratio between male and female reporters on sexual assault crimes remains relatively equal among most of the local papers, the *Free Press* had 38.4% of its stories (78 stories) written by male reporters and 10.8% (22 stories) written by female reporters. This makes sense given that both the crime reporter and the court reporter for the *Free Press* were male.[110] The sex of the reporter is significant because there was a statistical relationship between the use of myths and the sex of the reporter, particularly for reporters who worked for the *National Post.* This will be detailed in Chapter 6.

Where The Sexual Assault Took Place

If as claimed by the reporters and editors interviewed a local angle is an important news value in the coverage of sexual assault, then it is important to determine if sexual assault crime coverage is also parochial.[111] Results from coding for where the sexual assault took place differed between national and local papers. For the local papers (the *Times Colonist*, the *Free Press*, the *Star* and the *Chronicle Herald*) the coding categories were city of newspaper, province of newspaper, other parts of Canada, the United States, outside of Canada and the United States. The coding categories for the national papers were: Canada, the United States, and outside Canada and the United States.

As expected, in the majority of the stories that dealt with sexual assault the crime occurred in Canada. In the national newspapers, 281 of the stories were about a sexual assault crime that had occurred in Canada (58.8%) and 107 stories were of crimes that had occurred in the United States (22.4%). For the local papers, the plurality of the stories dealt with sexual assaults that had occurred in the city in which the newspaper was published (309 stories or 29.3%).

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[110] Interview of Bruce Owen, Police Reporter, *Winnipeg Free Press* (04 November 2004), in person at the Winnipeg Safety Building

[111] Christopher Dornan, "Printed Matter: Canadian Newspapers" in David Taras et. al. eds. *How Canadians Communicate* (Calgary: University of Calgary Press, 2003) 97 at 104.

Nationally, there were some surprises in the location of the story in which the sexual assault occurred. While sexual assaults that occurred within Canada were the most prevalent, the *Post* was more likely than the *Globe* to run a story about a sexual assault that occurred outside of United States and Canada. In the *Post*, slightly more than half of its stories were located in Canada (52.2% or 129 stories) while almost 66% of the *Globe* stories were located in Canada (65.8% or 152 stories). The *Post* was more likely than the *Globe* to run a story about a sexual assault that was located in the United States. Indeed, there were almost twice as many stories about a sexual assault in the United States in the *Post* than there were in the *Globe*. The *Post* had 71 American stories (28.7% of its coverage) while the *Globe* had only 36 (15.6% of its coverage).

Moreover, international stories about sexual assault made up almost 20% of the *Post*'s coverage (18.6% or 46 stories) while the *Globe* ran slightly fewer international stories (16.5% of its coverage or 38 stories). The fact that the story locations are dominantly within Canada fits with the contention that local news is going to be given a priority over stories from outside Canada.[112] However, the *Post's* reliance on stories from outside of Canada suggests the previously discussed assertion that the *Post*'s cost-cutting measures have had an impact on the way sexual assault is covered in Canada. In other words, the newspaper did not have to expend valuable resources including these stories in the news line-up.

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[112] William Wray Carney, *In the News: the practice of media relations in Canada* (Edmonton, University of Alberta Press, 2002) 60 and Interview of Jody Paterson, former Police Reporter, *Victoria Times Colonist* (01 November 2004), in the Douglas Hotel in Victoria.

Table 4.12: Where assault occurred by national newspaper

	National Post	***Globe and Mail***	**Total**
Canada	129	152	281
% within paper	52.2%	65.8%	58.8%
United States	71*	36	107
% within paper	28.7%	15.6%	22.4%
Outside US and Canada	42	38	80
% within paper	17.0%	16.5%	16.7%
Both US and Canada	5	5	10
% within paper	2.0%	2.2%	2.1%
Total	**247**	**231**	**478**
% within paper	**100%**	**100%**	**100%**

*significant at $p<.01$

While the focus in local newspapers is expected to be parochial, it becomes clear that not all newspapers covered the local sexual assault story in the same way. In both the *Winnipeg Free Press* and the *Toronto Star* the bulk of the stories featured sexual assaults that occurred in the city of the newspaper. In Winnipeg, 47.8% of the stories dealt with a sexual assault in that city (97 stories) and in Toronto 45.2% of the stories dealt with a sexual assault from that city (133 stories). In Victoria, only 11.2% of the stories dealt with a sexual assault in that city (28 stories) while in Halifax, 16.6% of the stories were local (51 stories). For Victoria, the majority of the stories about sexual assault featured crimes which occurred in the United States (25.7% of the stories or 64 stories). In Halifax, in the majority of the stories about sexual assault the crime occurred in other parts of the province (28.9% or 89 stories). Clearly then, the level of involvement of the police department with the media has an impact on the number of stories made available regarding sexual assault in those cities. Victoria's police department does not provide daily media briefings regarding crime and as a result, the newspapers carried less information. Halifax also had fewer stories that occurred within its city boundaries compared to the other cities, also because the police department released few news releases regarding sexual assault.

Table 4.13: Location of sexual assault by local newspaper

	Victoria T.C.	*Winnipeg F. P.*	*Toronto Star*	*Halifax C.H.*	**Total**
City % within paper	28 11.2%	97 47.8%	133 45.2%	51 16.6%	309 29.3%
Province % within paper	55 22.1%	19 9.4%	47 16.0%	89 28.9%	210 19.9%
Canada % within paper	58 23.3%	35 17.2%	28 9.5%	81 26.3%	202 19.2%
United States % within paper	64 25.7%	33 16.3%	49 16.7%	63 20.5%	209 16,8%
Canada & US % within paper	2 .8%	0 0.0%	2 .7%	1 .3%	5 .5%
Outside Canada & US % within paper	42 16.9%	19 9.4%	355 11.9%	23 7.5%	119 11.3%
Total **% within paper**	**249** **100.0%**	**203** **100.0%**	**294** **100.0%**	**308** **100.0%**	**1054** **100.0%**

Overall, over a third (33.7% or 516 stories) of the stories about sexual assault crimes printed in English Canadian newspapers occurred outside of Canada. This illustrates the outcome of budget constraints in the newsroom which that make it cheaper to follow a story that occurs internationally rather than spend resources on locally produced stories. The consequences of this decision by the newspapers is to skew Canadian's understandings about sexual violence. By focussing a great deal of attention on rapes that occur outside of our country, Canadians are shielded from the reality of rape that occurs in their neighbourhoods. As a result, there is no impetus for political action to deal with the issue of sexual assault. Instead, it is viewed as an incident that often occurs somewhere else.

Recent Case

While conducting this analysis, it became obvious that there were a large number of cases that were more than five years old. I wanted to make the distinction between cases that were being dealt with along normal court processing times and cases in which the victim was coming forward a number of years after the fact, so I coded the stories as being recent cases if they occurred from 1997 onwards. According to Statistics Canada, the median processing time for cases decided by trial was 150 days, while the median elapsed time for cases involving a preliminary inquiry was 233 days,[113] so using 1997 as a cut-off date provides enough time for processing and then the potential Appeal court decisions. The reason this was important because one of the changes in sexual assault legislation in 1983 was the abrogation of the recent complaint doctrine. I wanted to study if the victim's credibility is questioned more often in stories that dealt with an older complaint than stories that have sexual assault crimes of a more recent nature.

In 2002, 866 stories (56.5%) discussed a sexual assault that had occurred from 1997 onwards. Another 401 stories (26.2%) involved cases that had occurred before 1997. The majority of the stories about sexual assault in both national newspapers were recent cases. Slightly more than 30% of the cases had occurred prior to 1997. There were 268 stories in which the date that the sexual assault occurred was either not known or it was not applicable.

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[113] Statistics Canada, The Daily, "Case processing in criminal courts" (07 February 2002) http://www.statcan.ca/Daily/English/020207/d020207f.htm.

Table 4.14: Recent versus historical complaint by national newspapers

	National Post	*Globe and Mail*	Total
1997 to 2002 % within paper	129 67.2%	123 64.1%	252 65.6%
Prior to 1997 % within paper	63 32.8%	69 35.9%	132 34.4%
Total **% within paper**	**192** **100%**	**192** **100%**	**384** **100%**

Overall, the local newspapers also tended to focus on recent cases as well, but there were obvious differences between papers. For example, both Halifax and Victoria had significantly more stories about sexual assault crimes that occurred prior to 1997 compared to Toronto and Winnipeg. Just over 34% of the stories (68 stories) about sexual assault crime occurred prior to 1997 in the *Victoria Times Colonist* and in the *Halifax Chronicle Herald* that percentage is higher at 40.1% (97 stories). By comparison, over 19.4% of the *Winnipeg Free Press* stories (35 stories) involved a crime that had occurred prior to 1997 and in Toronto, 25.4% occurred before 1997 (66 stories). In Halifax, the relatively high number of older crime stories is the result in part of the coverage of the Gerald Regan trial, the pending release from prison of Karl Toft, a man who had been convicted of sexually assaulting boys while working for the Kingsclear training school in New Brunswick in the mid-60s to 1980s,[114] and the coverage of the sexual assault trial of physician William Christie, charged with sexually assaulting four teenaged boys in the 1970s and 1980s.[115] The *Chronicle Herald* also spent a great deal of time on stories about the sexual assault of specific victims by priests that occurred prior to 1997. Given that the Atlantic provinces are home to close to 7.5% of Canada's

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[114] Canadian Press "Toft may be kept in minimum-security jail, not halfway house" *Halifax Chronicle Herald* (18 January 2002) A8.

[115] Sherri Borden "Christie denies ex-patients' charges of sexual touching" *Halifax Chronicle Herald* (23 May 2002) A3.

Catholics, it is perhaps not surprising that stories about old sexual assaults by priests are of interest.[116] In Victoria, the majority of the coverage of the sexual assault crimes that occurred prior to 1997 also involved priests and, in both Halifax and Victoria, these crimes were being covered as they were dealt with in civil court.

Table 4.15: Recent versus historical complaint by local newspapers

	Victoria T.C.	*Winnipeg F. P.*	*Toronto Star*	*Halifax C.H.*	**Total**
1997 to 2002 % within paper	130 65.7%	145 80.6%	194 74.6%	145 59.2%	614 69.5%
Prior to 1997 % within paper	68 34.3%	35 19.4%	66 25.4%	100 40.8%	269 30.5%
Total **% within paper**	**198** **100.0%**	**180** **100.0%**	**260** **100.0%**	**245** **100.0%**	**883** **100.0%**

In both the national and the local papers, there was a relationship between the age of the victims and whether the case was recent. Cases that occurred prior to 1997 were more likely to feature a victim under the age of 18 than an adult victim.[117] This supports Christine Boyle's assertion that the changes to the recent complaint doctrine in sexual assault law may have little effect. As discussed in Chapter 2, Boyle argued that abrogating the recent complaint doctrine may not mean an increased number of women will report the sexual assault they experienced as women a number of years after the crime was committed.[118] This is important because many of these stories were followed through the court system by the newspapers and as was the case in Regan, getting a conviction in older cases is difficult because of the problems of fading memories and reluctant witnesses. The result is that a significant number of the older cases reported on in 2002 were framed as being an injustice (21.6% or 86 stories), many suggesting that women were making false accusations of rape.

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[116] Statistics Canada "Canadian Statistics: Population by religion, by provinces and territories (2001 Census)" http://www40.statscan.ca/cbin/fl/cstprintflag.cgi.

[117] 82.8% of the cases before 1997 had a victim under 18 compared to 63.8% that had a victim older than 18; significant at $p<.01$.

[118] Christine Boyle, *Sexual Assault* (Toronto: Carswell Company, 1984) at 155.

Status Of Sexual Assault

Because this analysis interrogates the role that the police play in telling the story about sexual assault, it was important to examine when the sexual assault was covered by the English Canadian newspapers. Did the reporters focus only on the police investigation? Or was time spent covering sexual assaults through the court process as well? Both national newspapers gave some attention to stories that detailed the police investigation of a sexual assault complaint. Indeed, 24 stories in the *National Post* (9.7%) and 20 stories in the *Globe and Mail* (8.7%) dealt with the fact that a sexual assault was reported to police. Another 43 stories in *Post* (17.5%) and 51 stories in the *Globe* (22.1%) were stories that indicated that police had made an arrest. In total, 138 stories or slight more than one-third of the stories in the national press (29.4%) involved the police investigation of a sexual assault complaint. It becomes clear then that the reliance on police sources and the framing of the sexual assault story as a law and order story is due to a large degree on the fact that police are releasing information to the media about sexual assault and the papers are utilizing that information.

In the national newspapers, the most frequent story about sexual assault was a story about police making an arrest. This was featured in almost 20% of the national stories (19.7% or 94 stories), ranging from 17.4% of the stories (43 stories) in the *Post* to 22.1% of the stories (51 stories) in the *Globe.* Surprisingly, less than 10% of the stories dealt with the fact that a sexual assault had been reported to police. This suggests that information about the early stages of a sexual assault investigation may not of great interest to the national newspapers, but once an arrest was made and the complaint "legitimized", then it gained news value

The highest percentage of stories in the national papers were stories that followed the sexual assault crimes through the court system. Adding up the frequencies for the different stages in the court processes from the backgrounder story on the sexual assault going to trial, to the coverage of the trial itself, the verdicts, sentencing, appeals, civil and class actions and execution, the total number of stories in both papers is 196 (95 for the *Post* and 101 for the *Globe*). This represents 41.8% of the overall coverage in both papers (39.1% for the *Post* and 44.7% for the *Globe*). It becomes clear then, that the court system is the primary resource for the national newspapers in regard to sexual assault.

Table 4.16: Status of sexual assault by national newspaper

	National Post	*Globe and Mail*	Total
Reported to Police	24	20	44
% within paper	9.7%	8.7%	9.2%
Arrest made	43	51	94
% within paper	17.4%	22.1%	19.7%
Going to trial	9	0	9
% within paper	3.6%	0.0%	1.9%
Coverage of trial	25	18	43
% within paper	10.1%	7.8%	9.0%
Guilty Finding	17	34	51
% within paper	6.9%	14.7%	10.7%
Not Guilty/Charges Dropped/ Stayed	11	10	21
% within paper	4.4%	4.3%	4.4%
Civil Suit	19	17	36
% within paper	7.7%	7.4%	7.5%
Appeal/Decision	6	7	13
% within paper	2.4%	3.0%	2.7%
Supreme Court	4	8	12
% within paper	1.6%	3.5%	2.5%
Extradition hearing	1	3	4
% within paper	.4%	1.3%	.8%
Offender released	2	0	2
% within paper	.8%	0.0%	.4%
Parole application	2	1	3
% within paper	.8%	.4%	.6%
Probation breach	1	3	4
% within paper	.4%	1.3%	.8%
Disciplinary Hearing	6	3	9
% within paper	2.4%	1.3%	1.9%
Execution	1	3	4
% within paper	.4%	1.3%	.8%
Conviction Review	4	5	9
% within paper	1.6%	2.2%	1.9%
War Crimes	3	5	8
% within paper	1.2%	2.2%	1.7%
Bail Hearing	2	1	3
% within paper	.8%	.4%	.6%
Institutional Response	34	20	54
% within paper	13.8%	8.7%	11.3%
Court Martial	1	0	1
% within paper	.4%	0.0%	.2%
Other	32	22	54
% within paper	13.0%	9.5%	11.3%
Total	**247**	**231**	**478**
% within paper	**100.0%**	**100.0%**	**100.0%**

Again, the decision about what stories to cover is guided by budget considerations. As Cox puts it, the *Globe* is careful when determining which sexual assault trial to report, "because when we start covering a case, we make a commitment to see it through. So you don't want to sort of start throwing resources at something that you don't want to follow for the next six months or three years or however long it takes."[119] This is evidenced by the difference between the *Post* and *Globe* coverage. The *Globe* covered fewer trials than the *Post* with only 7.8% of its coverage dedicated to sexual assault trials (18 stories) compared to 10.1% (25 stories) in the *Post.*

There were a number of other areas in which the *Post* and the *Globe* differed in their focus on coverage of sexual assault crimes. The first was in the coverage of institutional responses to sexual assault allegations. Stories coded as an institutional response included those that discussed the Catholic Church's discussions about sexual assault claims of parishioners or the discussions regarding residential school sexual assaults. In the *Post*, the institutional response made up 13.8% of its coverage (34 stories) while in the *Globe* it made up only 8.7% of its coverage (20 stories). These stories were usually framed as being a scandal and it suggests that the *Post* was more likely than the *Globe* to use scandal as a way of framing its coverage of sexual assault.

The second difference between the two papers was their coverage of the verdicts and in particular the guilty findings. The *Globe* covered twice as many stories regarding the guilty verdict or sentencing than did the *Post* (34 stories compared to 17 stories). Reports about a guilty finding constituted 14.7% of the coverage in the *Globe*, but only 6.9% in the *Post*. In essence, the *Post* did not give as much attention to rape stories in which the perpetrator was found guilty and instead focused on cases when the perpetrator was let go. The result of this is that the *Post*'s under-representation of guilty verdicts in sexual assault trials and its over-representation of the not guilty findings reinforces the myth that women lie about sexual assault and that innocent men are being falsely imprisoned because of those bogus claims.

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[119] Interview of Bob Cox, former National Editor *Globe and Mail* (29 October 2004) in person at *The Globe and Mail* cafeteria in Toronto.

In the local newspapers, there were also some differences in the coverage of sexual assault. Like the national papers, the bulk of the news coverage of sexual assault occurred at the court level for all the newspapers except the *Toronto Star* which had the plurality of its stories reporting on the sexual assault case while it was at the stage of the police investigation (41.2% of the stories or 121 stories). Over half of the stories in Halifax dealt with the sexual assault in court (54.2% or 1167 stories) while only slightly more than 16% of its stories involved the police investigation of a sexual assault (16.2% or 50 stories). In Winnipeg, slightly fewer than one-third of its stories involved the police investigation (30.5% or 62 stories) while close to half of its stories were court stories (46.3% or 94 stories). In Victoria, about one-quarter of the stories dealt with the police investigation (24.6% or 60 stories) while over 40% were court stories (41.4% or 101 stories). Again, this is indicative of the police involvement with the newspapers in releasing information regarding sexual assault and reflects the reliance they have on police for information during the initial stages of the sexual assault. Because the Toronto Police Service is pro-active in its handling of news releases, it should come as no surprise that the police investigation is given more newspaper attention in the *Star* than in any other newspaper.

The finding that the newspapers tend to cover sexual assaults during court proceedings is interesting because many of the reporters I talked to indicated how difficult and time consuming court coverage can be. Pron says that covering court cases can be problematic:

> We often will sit in on preliminary coverage but that can take days and you can't use the story because the information in the court room can't be used. And then we know that eight out of ten court cases actually plead out before the actual court story and so you don't get anything. The *Star* is a big news room, so they can afford to have us do that. In a lot of these cases though, we would cover them, but it's been plea bargained out and so it's gone. The court process throws up so many road blocks – you can't write on this, you can't write on that.[120]

Pron points out that in the United States, the court room procedure is vastly different. When American reporters came to Canada to cover the Paul Bernardo trial, they were astounded that the Canadian court rooms did not have a document room where all the documents involved in the trial are made available to reporters.[121]

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[120] Interview of Nick Pron, Police Reporter, *Toronto Star* (03 November 2004) by telephone.
[121] Interview of Nick Pron, Police Reporter, *Toronto Star* (03 November 2004) by telephone.

Table 4.17: Status of sexual assault by local newspaper

	Victoria T.C.	*Winnipeg F.P.*	*Toronto Star*	*Halifax C.H.*	**Total**
Reported to Police	25	26	57	23	131
% within paper	10.0%	12.8%	19.4%	7.5%	12.4%
Arrest made	36	36	64	27	163
% within paper	14.5%	17.7%	21.8%	8.8%	15.5%
Going to trial	6	5	5	11	27
% within paper	2.4%	2.5%	1.7%	3.6%	2.6%
Coverage of trial	36	33	45	47	161
% within paper	14.5%	16.3%	15.3%	15.3%	15.3%
Guilty Finding	11	24	25	39	99
% within paper	4.4%	11.8%	8.5%	12.7%	9.4%
Not Guilty/Charges Dropped/ Stayed	13	11	18	21	63
% within paper	5.2%	5.5%	6.1%	6.7%	6.0%
Civil Suit	20	6	12	26	64
% within paper	8.0%	3.0%	4.1%	8.4%	6.1%
Appeal/Decision	7	6	6	11	30
% within paper	2.8%	3.0%	2.0%	3.5%	28.0%
Supreme Court	3	1	1	7	12
% within paper	1.2%	.5%	.3%	2.3%	1.1%
Extradition hearing	1	0	0	1	2
% within paper	.4%	0.0%	0.0%	.3%	.2%
Offender released	8	7	1	5	21
% within paper	3.2%	3.4%	.3%	1.6%	2.0%
Parole application	2	0	0	3	5
% within paper	.8%	0.0%	0.0%	1.0%	.6%
Probation breach	2	4	1	0	7
% within paper	.8%	2.0%	.3%	0.0%	.7%
Disciplinary Hearing	5	2	7	3	17
% within paper	2.0%	1.0%	2.4%	1.0%	1.6%
Execution	2	1	1	0	4
% within paper	.8%	.5%	.3%	0.0%	.4%
Conviction Review	4	2	10	1	17
% within paper	1.6%	1.0%	3.4%	.3%	1.6%
War Crimes	1	1	4	0	6
% within paper	.4%	.5%	1.4%	0.0%	.6%
Bail Hearing	1	7	0	1	9
% within paper	.4%	3.4%	0.0%	.3%	.9%
Institutional Response	33	16	13	51	113
% within paper	13.3%	7.9%	4.4%	16.6%	10.7%
Court Martial	3	0	0	0	3
% within paper	1.2%	0.0%	0.0%	0.0%	.3%
Other	30	15	24	31	100
% within paper	12.0%	7.4%	8.2%	10.1%	9.5%
Total	**249**	**203**	**294**	**308**	**1054**
% within paper	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

In Winnipeg, that there was only one court reporter for the *Free Press* in the year 2002 made it difficult to cover all the court cases. According to Bruce Owen:

> (y)ou might sit in on the opening arguments and then at the end if the trial is expected to continue …and you try in discussions with the Crown to find out what the witness list, who's appearing first and when is the victim going to testify and you try and be there when the victim testifies and then you'll be dashing out to cover another court case exactly the same way. Then when the defence has an argument, you try and pick that too …you know for the other side of the story and when the verdict is heard.[122]

Owen says sometimes it is not good time management to cover all of the trial and at times it is quite boring, so reporters need to make decisions about what is important and what is not.[123]

Sherri Borden Colly, the court reporter for the *Halifax Chronicle Herald* agrees that determining what to cover requires setting priorities. Borden Colly says she will cover the more serious sexual assault cases:

> You know if it's a more high profile case -- like a teacher student relationship. It's unfortunate, but there are a lot of incest cases that occur in Nova Scotia and sometimes we cover them and sometimes we don't. If I'm covering a murder trial then I can't cover three sexual assault cases that week you know. It's just prioritizing.[124]

Borden Colly says the newspaper simply does not have the resources to warrant covering the less serious incidents of sexual assault. This suggests that there is a hierarchy within the newsrooms of sexual assault reporting, with some sexual assaults being considered secondary to others.

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[122] Interview of Bruce Owen, Police Reporter, *Winnipeg Free Press* (04 November 2004), in person in Winnipeg.

[123] Interview of Bruce Owen, Police Reporter, *Winnipeg Free Press* (04 November 2004), in person in Winnipeg..

[124] Interview of Sherri Borden Colly, Court Reporter, *Halifax Chronicle Herald* (25 October 2004), in person in Halifax.

Conclusion

It becomes clear that the reality of sexual assault in Canada was not reflected in the coverage in English Canadian newspapers in 2002. While the papers did talk about the crime, the number of stories written did not represent the actual number of cases police investigate and the effect of that is a distorted picture of sexual assault. As Taras explains in the distorted mirror model "[e]vents in the real world are transformed to fit journalistic needs and criteria."[125] It would appear in the case of sexual assault stories that the journalistic standard for their inclusion in the paper is novelty. As will be made clearer in the next chapter, child victims, multiple victims and male victims with female perpetrators fit the criteria for stories that will receive play in the newspapers under study. Indeed, the journalists interviewed all agree that stories that hit close to home, engender an emotional reaction or create comment are stories that are covered.

From an agenda setting and framing perspective, sexual assault is not often a front-page story and is seldom the topic for editorials or columnist's comments. The majority of the news stories about rape are short briefs written with no-by-line. Again, as I explore more thoroughly in the next chapter, this was often because the journalist was encumbered by anonymity requirements for victims and perpetrators set out by police and the court. In 2002, the coverage of sexual assault crimes was overwhelmingly episodic, with little statistical information provided about the wide-spread nature of the crime. A thematic approach to covering sexual assault that provides the reader with a contextual understanding of rape was also missing. As a result, information about sexual assault was warped. The outcome of this distorted model of news is that events "become alien or artificial. They have been taken out of their context in the real world and recontextualized to fit the media's needs."[126]

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[125] David Taras, *The Newsmakers: the media's influence on Canadian Politics* (Scarborough: Nelson Canada, 1990) at 7.

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[126] Ibid at 31.

Chapter 5 – Whose Story Is It?

"When it was over I left the courtroom and walked into an ambush of media scrumming, humming, drumming their own views of what happened. Pointing their questions at me, shooting them, firing. Surrounded."[1]

As the previous chapter demonstrates, the story of sexual assault was told by the Canadian newspapers under study through a distorted model of news that skews our understanding of the crime. It was not an issue that was seen as important enough for the front page. Indeed, it was often not a story that was important enough to be dealt with in any detail or with a by-line. Sexual assaults that featured multiple victims or celebrity perpetrators or those that were considered novel, horrendous, or scandalous were the crimes that were considered viable news stories for inclusion in the daily newspaper page, while "everyday" sexual assaults – those committed by boyfriends, acquaintances or fathers -- were often ignored or downplayed.

This chapter goes into more detail to look at how the cases, the victims and the perpetrators were depicted by the newspapers under study. This is important because Benedict found that the portrayal of the victim plays into the myths and stereotypes about sexual violence. For example, as Benedict points out, a victim who is older, married, or a child is more likely to be believed by police and the media as the "ideal" victim than a victim who has flouted the societal norms about women's behaviour. This chapter also examines how the perpetrator is depicted in English Canadian newspapers. Again,

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[1] Jane Doe, *The Story of Jane Doe: A book about rape* (Toronto: Random House, 2003) at 211.

Benedict documented this as another potential site for myths and stereotypes, particularly the myth that only "crazy" men or men "out of control" rape women. The age of the victim was also examined, particularly as young women are statistically more likely to be victimized sexually. Additionally, the race of both the victim and the perpetrator was also quantified. Statistically, Aboriginal women are more likely to be victims of sexual assault and it was important to understand if the newspapers under study recognized the racialised aspects of sexual violence. As well, the perpetrator's race was also examined to determine if the myth that minority men are responsible for rape in Canada is prevalent. Finally, the source utilized by the newspapers was also analyzed to determine in whose voice the story of rape is told.

Depiction Of Victims And Perpetrators

Slightly more than 40% of the stories in which the number of victims is known featured a sexual assault with multiple victims (521 stories), while 59.4% of the stories (763) dealt with the sexual assault of a single victim. It is not known if this is representative of the actual cases regarding sexual assault, as Statistics Canada does not capture these types of statistics. However, given that the police are more likely to release information about a sexual assault if there is a public safety issue and given the newspapers' reliance on stories in which the crime is viewed as "horrendous,"[2] or "one in a series of"[3] an interest in crimes in which there are multiple victims seems understandable. Novelty remains an enduring news value.

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[2] Interview of Jody Paterson, former Police Reporter, *Victoria Times Colonist* (01 November 2004), in the Douglas Hotel in Victoria.

[3] Interview of Nick Pron, Police Reporter, *Toronto Star* (03 November 2004) by telephone.

Table 5.1: Multiple victim by national newspaper

	National Post	*Globe and Mail*	Total
Multiple Victim % within paper	87 43.5%	78 39.2%	165 41.4%
Single Victim % within paper	113 56.5%	121 60.8%	234 58.6%
Total **% within paper**	**200** **100%**	**199** **100%**	**399** **100%**

In the national newspapers, stories about sexual assaults with multiple victims made up almost 43.5% of the coverage in the *National Post* (87 stories) and 39.2% in the *Globe and Mail.* As well, 40.4% of the local sexual assault stories (359 stories) had multiple victims. In the *Halifax Chronicle Herald*, 44.7% (110 stories) of its stories were about sexual assaults with multiple victims, while in the *Winnipeg Free Press*, 34.6% of the stories (62 stories) had multiple victims. Toronto ran 38.5% of its stories (102) with multiple victims and Victoria had 42.9% of its stories (85) with multiple victims.

Table 5.2: Multiple victim by local newspaper

	Victoria T.C.	*Winnipeg F. P.*	*Toronto Star*	*Halifax C.H.*	Total
Multiple Victim % within paper	85 42.9%	62 34.6%	102 38.5%	107 44.0%	356 40.2%
Single Victim % within paper	113 57.1%	117 65.4%	163 61.5%	136 56.0%	529 59.8%
Total **% within paper**	**198** **100 %**	**179** **100%**	**265** **100%**	**243** **100%**	**885** **100%**

By comparison, there was not a substantial number of stories that featured a multiple perpetrator. Only 201 stories in which the number of perpetrators is known (15.4% of the coverage overall) talked about a rape that had more than one perpetrator, while 84.6% had a single perpetrator (1102 stories). In the national papers, only 17.4% of the stories had multiple perpetrators (70 stories), with 15.7% of the *Post* stories running with a multiple perpetrator (31 stories) and 19.0% of the *Globe* featuring multiple perpetrators

(39 stories). Again, Statistics Canada did not release statistic regarding sexual assaults featuring multiple perpetrators, so it is not know if this is high or low compared to the statistical average.

Table 5.3: Multiple perpetrator by national newspaper

	National Post	*Globe and Mail*	Total
Multiple Perpetrator % within paper	31 15.7%	39 19.0%	70 17.4%
Single Perpetrator % within paper	167 84.3%	166 81.0%	333 82.6%
Total **% within paper**	**198** **100%**	**205** **100%**	**403** **100%**

The local papers featured fewer stories with multiple perpetrators than did the national newspapers. Overall, only 14.6% of the stories in the local paper had multiple perpetrators (131 stories), with the *Toronto Star* writing the lowest number of stories with multiple perpetrators (12.3% or 33 stories) and Victoria featuring stories with multiple perpetrators in 16.1% of its coverage (33 stories). In Halifax 37 stories or 15.0% of its coverage had multiple perpetrators.

Table 5.4: Multiple perpetrator by local newspaper

	Victoria T.C.	*Winnipeg F. P.*	*Toronto Star*	*Halifax C.H.*	Total
Multiple Perpetrator % within paper	33 16.1%	28 15.6%	33 12.3%	37 15.0%	131 14.6%
Single Perpetrator % within paper	172 83.9%	152 84.4%	236 87.7%	209 85.0%	769 85.4%
Total **% within paper**	**205** **100%**	**180** **100%**	**269** **100%**	**246** **100%**	**900** **100%**

Sex Of The Victim

As expected, the majority of the stories written in 2002 had a female victim. However, the male victim was clearly over-represented in stories that appeared in English Canadian newspapers. In total, there were 1238 stories in which the sex of the victim was specified. There were 81 stories in which the sex was not known and another 213 stories that did not discuss specific victims and as such sex was considered not applicable. According to Statistics Canada, victims of sexual assault crimes are predominantly female. In 2002, 85% of the victims who reported their crime to police were female and in the GSS for 1999, 82% of the victims were female.[4] In the newspaper accounts regarding sexual assault, 28.5% of the stories had a male victim (353 stories) while 67.2% had a female victim (832 stories). There were 53 stories in which the victims were both male and female (4.3%).

The over-representation of the male victim and the female perpetrator reflects the news value of novelty. Marian Meyers's analysis of interviews conducted with journalists in Atlanta determined that for journalists only rapes that are deemed unusual are worth reporting. Indeed, "[t]he emphasis on the uncommon renders most rapes not simply unnewsworthy but unimportant."[5] This echoes Cox's statement that news values on sexual assault focus on the unique victim or unique perpetrator.[6] Sexual assaults that involve men as victims and women as perpetrators are novel enough to be viewed as important, while violence against women by men is normalized to the point that it is viewed as mundane.

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[4] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, no. 6) at 7.

[5] Marian Meyers, *News Coverage of Violence Against Women: Ensexing Blame* (Newbury Park: Sage Publications, 1997) at 93.

[6] Interview of Bob Cox, former National Editor *Globe and Mail* (29 October 2004) in person at *The Globe and Mail* cafeteria in Toronto.

Table 5.5: Sex of victim

	Frequency	Percent
Male	352	28.5%
Female	832	67.2%
Both	53	3.5%
Total	**1240**	**100%**

Both the *Post* and the *Globe* over-represented the male victim in their coverage in 2002 and the *Post* was more likely than the *Globe* to feature a story with a male victim (60.7% to 39.3% respectively;). The *Post* ran a story with a male victim in 36.0% of the news stories (68 stories) in which the victim's sex was known, while the *Globe* featured the male victim in 23.5% (44 stories) of its stories in which the victim's sex was known. Female victims made up only slightly more than half of the stories in the *Post* (58.7% or 111 stories) while stories with both male and female victims comprised slightly more than 5% of the stories (10 stories). In the *Globe*, female victims were in the news in 72.7% of its coverage (136 stories) and there were only 7 stories (3.7%) stories in which there were victims of both sexes.

Table 5.6: Sex of victim by national newspaper

	National Post	***Globe and Mail***	**Total**
Male **% within paper**	68* 36.0%	44 23.5%	112 29.8%
Female **% within paper**	111 58.7%	136 72.7%	247 65.7%
Both **% within paper**	10 5.3%	7 3.7%	17 4.5%
Total **% within paper**	**189** **100%**	**187** **100%**	**376** **100%**

***significant at p<.02**

The local newspapers also over-represented the male victim in their depiction of sexual assault crimes. Overall locally, 28% of the sexual assault crimes covered (241 stories) involved a male victim, with the numbers ranging from 25.6% in Toronto to 30.4% in both Halifax and Winnipeg. Victoria and Halifax had slightly higher number of crimes that affected both sexes, due in part to their extensive coverage of the sexual assault allegations against the Catholic Church.

Table 5.7: Sex of victim by local newspaper

	Victoria T.C.	*Winnipeg F. P.*	*Toronto Star*	*Halifax C.H.*	Total
Male % within paper	51 26.4%	52 30.4%	67 25.6%	71 30.1%	241 28.0%
Female % within paper	132 68.4%	117 68.4%	193 73.7%	143 60.6%	585 67.8%
Both % within paper	10 5.2%	2 1.2%	2 .8%	22 9.3%	36 4.2%
Total **% within paper**	**193** **100%**	**171** **100%**	**262** **100%**	**237** **100%**	**862** **100%**

Like the male victim, the female perpetrator is also over-represented in the 2002 coverage in English Canadian newspapers. According to Statistics Canada, 97% of the people accused of sexual assault in 2002 were men,[7] but in this study only 76.2 % (1168 stories) of the stories in English Canadian newspapers in which the sex of the perpetrator is known featured a male perpetrator. Female perpetrators were featured in 8.6% of the stories (112 stories) in which the sex of the perpetrator was known. There were 23 stories (1.8%) in which the perpetrator was both a male and a female. In 16 stories, the sex of the perpetrator was not known and 213 stories talked about sexual assault in a general sense and did not feature a specific victim or perpetrator.

Nationally, the number of stories with a female perpetrator in the *Post* was substantively higher than the number of stories with a female perpetrator in the *Globe*. Close to 12% of the stories in the *Post* (11.7% or 23 stories) had a female perpetrator compared to only 3.4% of the stories in the *Globe* (seven stories).

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[7] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, no. 6) at 7.

Table 5.8: Sex of Perpetrator by national newspaper

	National Post	*Globe and Mail*	Total
Male % within paper	172 87.3%	190 92.7%	362 90.0%
Female % within paper	23 11.7%	8 3.9%	31 7.7%
Both % within paper	2 1.0%	7 3.4%	9 2.2%
Total **% within paper**	**197** **100%**	**205** **100%**	**402** **100%**

The majority of the stories in the local newspapers about sexual assault had male perpetrators, but like the national newspapers, the female perpetrator was also over-represented in the coverage in 2002. In total, there were 901 stories in which there was a perpetrator and the sex of the perpetrator could be determined. Over 89.5% of the stories (806 stories) had a male perpetrator, while 9.0% (81 stories) had a female perpetrator. This is slightly higher than the statistical average which suggested in 2002 that 93% of the victims of sexual assault were female. The *Victoria Times Colonist* had the highest number of cases with a female perpetrator (10.7% or 29 stories), while the *Winnipeg Free Press* had the lowest (7.1% or 13 stories). Only 1.6% of the overall coverage (14 stories) had both male and female perpetrators and Victoria ran the most of these with eight stories (3.9% of its coverage).

Table 5.9: Sex of perpetrator by local newspaper

	Victoria T.C.	*Winnipeg F.P.*	*Toronto Star*	*Halifax C.H.*	Total
Male % within paper	177 86.3%	169 92.9%	240 88.9%	220 90.2%	806 89.5%
Female % within paper	20 9.8%	13 7.1%	29 10.7%	19 7.8%	81 9.0%
Both % within paper	8 3.9%	0 0.0%	1 .4%	5 2.0%	14 1.6%
Total **% within paper**	**205** **100%**	**182** **100%**	**270** **100%**	**244** **100%**	**901** **100%**

The over-representation of the female perpetrator and male victim can be explained in part by the national and local coverage of the Laura Sclater and the Amy Gehring trials. Scalter was a Barrie, Ontario, elementary school teacher who was charged with sexually assaulting a 13-year old male student. Her trial began in June and ended with her acquittal in July. Nationally, the *Post* ran 14 stories on her trial and her hearing before the Ontario College of Teachers in November that reinstated her teaching license. By comparison, the *Globe* ran only one story. No other story about a specific sexual assault garnered that type of attention in the *National Post* in 2002. The local papers did spend some time on the Sclater case as well, with the *Toronto Star* running the most stories (15), with Victoria and Halifax running the story twice and Winnipeg ran it once. It is perhaps not surprising that Toronto spent such time and attention on this story, as it could be considered a local story.

The second story featuring a female perpetrator who also garnered a great deal of attention both nationally and locally was about the Gehring trial. Amy Gehring was a young teacher originally from Otterville, Ontario, who was on a teaching contract in Guildford, England. Gehring was charged with four counts of indecent assault with two boys aged 14 and 15. She was later acquitted. The *Post* ran six stories about Gehring, while the *Globe* ran eight. Locally, Victoria ran 14 stories on Gehring, while Halifax dedicated 13 stories to the story, Winnipeg had nine, and Toronto featured seven. Potentially, Gehring could also be considered a provincial story for Toronto, because she was educated at University of Western Ontario and had grown up in a farming community in Northern Ontario, yet it did not seem to attract as much attention as the

Sclater case did in Toronto. Why it was seen as such an important story in Victoria and Halifax is unclear. A partial explanation could be that the majority of the stories about Gehring were provided through Canadian Press and, in Victoria's case, through the Southam news service and thus the news coverage cost little to produce yet could fill news holes in the paper.

In their analysis of legal practises employed in violent crimes, Elizabeth Comack and Gillian Balfour determined that the court system works within a societal paradigm that equates masculinity with violence. When women are charged with committing violent crimes, their crimes are not viewed as normal. Instead, "[t]hese women are an anomaly; they pose a challenge to the already known and recognized categories used by Crown attorneys and defence lawyers in the legal construction of a case."[8] There is evidence that these challenges became part of news discourse in the way the female perpetrator was portrayed in both the Sclater and Gehring cases.

When examining the terms used to describe Laura Sclater in the *Post*'s coverage of her trial, a dichotomy was clearly constructed. On one hand, Sclater was a happily married mother,[9] who was a caring and involved teacher.[10] These descriptions of Sclater then clearly fall into the realm of "normal" behaviour for women. On the other hand Sclater was treated as an anomaly, described as being unhappily married,[11] immature,[12] a temptress[13] who ruined the victim's life.[14] Her appearence was described as being both revealing[15] and subdued with her "hair pulled back tightly in a bun."[16] Interestingly enough, the bulk of the Sclater stories that appeared in the *Post* were written by a female reporter, Francine Dube. In fact, in the *Post*, female reporters wrote 70% of the stories (14 of the 20 stories) in which the perpetrator was female.

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[8] Elizabeth Comack and Gillian Balfour, "The Power to Criminalize: Violence, Inequality and the law" (Halifax: Fernwood Publishing, 2004) at 61-62.

[9] Jon Bricker, "Teacher's husband considered notes a joke: Alleged sexual misconduct" *The National Post* (16 July 2002) A08.

[10] Francine Dube "Student tells of teacher's sexual advances" *The National Post* (25 June 2002) A12.

[11] Francine Dube "Teacher spoke of leaving spouse, student alleges: Court documents: Woman accused of sexually assaulting 13-year-old pupil" *The National Post* (27 June 2002) A14.

In the lone *Globe* story about Sclater, the reporter talked about her sending "dozens of salacious love notes" to the boy she was accused of molesting. Later in the story, she was described as a married woman who hugged her husband after the acquittal decision. Further down in the story, the Crown called her a temptress who sought sexual gratification with young boys. Finally, her actions were explained as being caused by a "mental condition, born of naiveté, some measure of psychological and emotional immaturity and poor judgement."[17] The discussion about Sclater's mental condition falls under the category of what Comack and Balfour consider the "psy" discourse – the use of psychology to explain the behaviours of those who have overstepped the boundaries of acceptable aggression.[18]

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[12] Jon Bricker and Francine Dube "Teacher's sexy notes not proof of guilt, Judge acquits Sclater" *The National Post* (20 July 2002) A09.

[13] Francine Dube "Teacher to boy: 'You are looking good today': 13-year-old student: Notes entered as evidence at sex assault trial" *The National Post* (29 June 2002) A03.

[14] Francine Dube "Teen blames teacher for 'ruined years': Letters to elementary school student signed with 'love', happy faces and hearts: Sexual assault alleged." *The National Post* (03 July 2002) A16.

[15] Francine Dube "Witness in teacher trial changes testimony: Sex assault charge: No inappropriate physical contact, student's friend says" *The National Post* (28 June 2002) A13.

[16] Francine Dube "Love notes wrong, accused teacher says: 'Fake relationship': Woman denies kissing, fondling 13-year-old student" *The National Post* (09 July 2002) A05.

[17] Estanislao Oziewicz "Teacher who sent notes to student acquitted by judge" *The Globe and Mail* (20 July 2002) A6.

[18] Elizabeth Comack and Gillian Balfour, "The Power to Criminalize: Violence, Inequality and the law" (Halifax: Fernwood Publishing, 2004) at 61.

In the local coverage of Sclater there was also evidence of the need by the newspapers to portray Sclater in dichotomous terms: as both a "normal" woman and as the anomalous perpetrator. In the *Star*, she was described as both "manipulative" and a "'star performer' in teaching."[19] She was called "the best teacher" at the same time as she was described as "not normal."[20] As well, her behaviour inside the classroom and inside the courtroom was put under the microscope. Her demeanour was described as stoic in one *Times Columnist* story in contrast to the mother of the boy she was accused of molesting, who was left "in tears."[21] In a *Winnipeg Free Press* report, Sclater's husband is quoted as saying that Sclater "was very much in love with her husband and I was very much in love with her."[22]

It is interesting that a woman columnist for the *Winnipeg Free Press*, Lindor Reynolds, talked about what would have happened if the sexes were reversed in the Sclater case and the teacher charged was male. Reynolds wrote that Sclater "betrayed a sacred trust when she decided to place her need for affection and attention above the rights of a child to be protected from emotional abuse in his own school. This woman should never be allowed to teach again."[23] According to Reynolds, it is reverse sexism that was behind the acquittal. She asked:

> If the genders were reversed in this case, if it were Mr. Sclater leaving sexually charged notes for a 13-year old girl, would the outcome be different. You bet, because we are still willing to believe there's something sexy about a woman coming on to a boy, something flattering to a male child.[24]

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[19] Roberta Avery "Teacher in sex trial awaits verdict" *Toronto Star* (18 July 2002) A04.
[20] Roberta Avery "Boy's liaison with teacher concealed, court told" (28 June 2002) A26.
[21] Canadian Press "Racy notes and gossip not enough to convict teacher" *Victoria Times Colonist* (20 July 2002) A5.
[22] Canadian Press "Teacher's love notes to boy, 13, called joke" (16 July 2004) B2.
[23] Lindor Reynolds "Not guilty, but unfit" *Winnipeg Free Press* (23 July 2002) A16.
[24] Lindor Reynolds "Not guilty, but unfit" *Winnipeg Free Press* (23 July 2002) A16.

While I agree with Reynolds's point that there may be a certain degree of reverse sexism at work in the way this case is viewed, I would also suggest that sexism is the reason for the outrage about an acquittal in a sexual assault case with a female accused. There were numerous cases in 2002 of men in positions of authority being charged with sexually assaulting their charges and being acquitted. Where is the outrage over that?

The handling of the Gehring case was interesting as well. Since the trial occurred outside of Canada, it was clear that all the papers were influenced to some degree by the British tabloids' handling of the case. In fact, one article in the *National Post* borrowed heavily from two tabloids, including the Sunday Mirror:

> The four-page story in the Sunday Mirror includes a picture of Ms. Gehring wearing a long evening dress, sitting sideways across a sofa under the headline: "World Excusive: Sex Case Amy's Story." Along one side of the page is another headline: "I DID Sleep with a Virgin Age 15 [And I Didn't Hear Him Complain Much at the Time.]." She is also pictured wearing a pair of jeans and a vest, her navel exposed, holding a pointer in her leather-gloved hands.[25]

In a story printed in the *Globe and Mail* that same day, reference is also made to the "provocative" and "suggestive photos" and the pointer is suddenly transformed into a "riding crop".[26]

The Gehring story actively played on the myth that conflates sex and sexual assault. Moreover, it suggested that "sex between an adolescent boy and an older woman is an introduction to sexual prowess and manhood."[27] One story in the *Post* quoted a 16-year old boy talking about sex with Gehring as his first sexual encounter.[28] A *Globe* story detailed the headlines being run by the British tabloids in regard to the story which included "Miss Accused of Seducing Pupils Denied Offering Herself On A Plate."[29] It is clear that Gehring's crimes are viewed as a seduction of younger men and "every schoolboy's dream."[30]

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[25] Chris Wattie "Teacher confesses to U.K. Paper: Sex with 16-year-old: Canadian woman acquitted last week of seducing boys" *The National Post* (11 February 2002) A03.

[26] Alan Freeman "Gehring tells tabloid she had sex with teen" *The Globe and Mail* (11 February 2002) A2.

In the local stories, coverage of the Gehring story was provided by Canadian Press for all the newspapers except the *Victoria Times Colonist* which relied on the Southam wire service for its reports. Thus the depiction of Gehring covered in the *Post* mirrored the depiction of Gehring in the *Times Colonist.* The Canadian Press coverage of Gehring was substantively more subdued than the rhetoric provided in the *National Post.*

Age Of Victim

Stories were also coded to determine the age of the victim at the time of the assault. As I discussed in Chapter 4, there were several cases in which the news report involved a sexual assault that had occurred a number of years ago. For example, the Gerald Regan case in which the Nova Scotia Premier was accused of several sexual assaults dated back to the 1970s. In these cases, the victims' ages at the time of the assault were considered.

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[27] Michael King, Adrian Coxell, and Gill Mezey, "The prevalence and characteristics of male sexual assault" in Gillian C. Mezey and Michael B. King, eds., *Male Victims of Sexual Assault* 2d ed., (London: Oxford, 2000) 1at13.

[28] Sarah Schmidt "Gehring admits she shouldn't be teaching: Drinking and sex with students was 'inappropriate'" *The National Post* (01 May 2002) A06.

[29] Alan Freeman "Canadian's sex trial a field day for media U.K. press agog as youths testify about their relations with female biology teacher" *The Globe and Mail* (01 February 2002) A10.

[30] Alan Freeman "Canadian's sex trial a field day for media U.K. press agog as youths testify about their relations with female biology teacher" *The Globe and Mail* (01 February 2002) A10.

Additionally, certain assumptions were made regarding age because the age of the victim was not always made clear. For instance, if the individual was in a profession such as a flight attendant or a security guard, there was an assumption made that the individual was 18 years of age or older. As well, if the age of the victim was not disclosed but s/he was called a child, I assumed that the victim was under the age of 14.

Statistically, sexual assault victims are likely to be young. More than half of the sexual assaults reported to police in 2002 involved children or young adults under the age of 18 (61%). Additionally, "(w)hile males make up a small proportion of victims of sexual offences overall (15%), this proportion is higher for younger victims. In incidents involving children under 12, boys made up 29% of victims compared to 12% of youth aged 12-18 and 8% of adults."[31]

Originally, stories were coded to determine if the victim was under the age of 14, which is in keeping with the age of consent guidelines set out by the Criminal Code. However, the Juristat Figures released by Statistics Canada categorize the victim as being 18 years of age or younger and so a second category was added that included victims 14 years of age to 18. This is also important because it allows for the exploration of the valorization of the child-victim citizen as identified by Xiaobei Chen. Chen posits that "today's criteria of innocence and victimization have been contracted so much that only children, often young children, babies, and foetuses, can be considered innocent victims".[32]

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[31] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, No. 6) at 7.

[32] Xiaobei Chen, "The Birth of Child-Victim Citizen" in Janine Brodie and Linda Trimble, eds., *Reinventing Canada: Politics of the 21st Century* (Toronto: Prentice Hall, 2003) 189 at 200.

Overall, half of the stories written about sexual assault in which the victim's age is known or assumed had a victim that was under the age of 14 (497 stories or 42.8%). Moreover, in more than 70% of the stories (807 stories) in which the victim's age is known, the victim was 18 years of age or younger. This appears to be slightly higher than the police reported incidents of sexual assault for 2002, in which "over half (61%) of all victims of sexual offences reported to police were children and youth under 18 years of age."[33] The range of ages of victims covered in the newspapers was quite extreme. The youngest victim was a one-week old baby girl who had been raped in South Africa.[34] The oldest victim was an 80-year old woman who was sexually assaulted while she worked in her backyard.[35]

Both national newspapers over-represented the young victim in their coverage. In the *National Post*, the victim is under the age of 18 in 74% of the stories in which the age is known (131 stories) while in the *Globe and Mail*, 68% of the stories (123 stories) had a victim under the age of 18. Interestingly, both the *Post* and the *Globe* were more likely to run a story a story featuring an adult female victim than a female victim under the age of 18 (in the *Post* it is 84.4% and 15.6% respectively) and in the *Globe* it is 87.5% and 12.5% respectively.

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[33] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, No. 6) at 7.

[34] Reuters "Week-old infant rape in S. Africa" *Toronto Star* (31 July 2002) A02.

[35] Bruce Owen "8th woman attacked: Sexual predator steps up violence in latest assault." *Winnipeg Free Press* (10 May 2002) A1.

Table 5.10: Age of victim by national newspaper

	National Post	*Globe and Mail*	Total
18 and under % within paper	131* 74.0%	123** 68.0%	254 70.9%
Over 18 % within paper	46 26.0%	58 32.0%	104 29.1%
Total **% within paper**	**177** **100%**	**181** **100%**	**358** **100%**

*significant at p<.02
** significant at p<.01

Not surprisingly, male victims 18 years of age and under were also over-represented in both national newspapers. In the stories in the *Post* with a male victim, 45 were 14 and under (72.5% of the stories with male victims) and 59 were under the age of 18 (89.3% of the stories in which the victim was male). In the *Globe*, there were 17 stories in which there was a male victim 14 years of age and under (50% of the stories with a male victim) and in 37 stories, he was under the age of 18 (84.0% of the stories with a male victim).

Table 5.11: Age of victim by local newspaper

	Victoria T.C.	*Winnipeg F. P.*	*Toronto Star*	*Halifax C.H.*	Total
18 and under % within paper	119 63.3%	115 68.9%	151 65.4%	105 80.5%	550 69.5%
Over 18 % within paper	69 36.7%	52 31.1%	80 34.6%	40 19.5%	241 30.5%
Total **% within paper**	**188** **100%**	**167** **100%**	**231** **100%**	**205** **100%**	**791** **100%**

The local papers also tended to over-represent the young victim with close to 70% of the stories featured a victim who was under the age of 18. The young victim dominated the coverage in the *Halifax Chronicle Herald* where 80.5% of the victims (165 stories) were 18 years of age and under. In Victoria, 63.3% of the victims were 18 and under (119 stories), in Toronto the number rose to 65.4% (151 stories) and in Winnipeg it was at 68.9% (115 stories). The majority of the male victims in the local paper were 18 years of age and under. In the *Time Colonist* there were 44 stories about male victims 18 years of age and under and only four over 18. In the *Free Press*, there were also 44 stories about male victims 18 years of age and under and only seven over 18. In the *Star* there were 55 stories with a male victim 18 years of age and under, with only five stories about male victims over 18. Finally, the *Chronicle Herald* ran 60 stories with a male victim 18 years of age and under and only ten stories with a male victim over 18.

Race Of Victim And Perpetrator

Rape is not only gendered, it is also racialised. Statistics Canada data for 2001 suggest that the rates of sexual assault crimes in the Northwest Territories, Nunavut and Yukon are higher than in any other province. In the Northwest Territories, there were 359.8 sexual assault crimes per 100,000 population; in Nunavut there were a staggering 788.4 crimes per 100,000 population; and in the Yukon there were 254.3 per 100,000 population. The rate of sexual assault in Canada is at 78.6 per 100,000 population; in Alberta, the rate is 87.3 per 100,000 population; and in Ontario, it is 74.0 per 100,000 population.[36]

There are serious gaps in the research regarding sexual violence against Aboriginal women both on and off reserves. Margo Nightingale suggests that the absence of literature that looks at the issue of race in sexual assault "is partly the fault of White middle class feminists who have asserted their version of reality as representative of all women's realities."[37] But Nightingale also says that the lack of information about sexual assault is due to "the silence of Native women."[38] She suggests that for Aboriginal women, sex issues may be viewed as less important than race issues and for them, "the rights of the Native population may take precedence."[39] As well, "another reason for the silence of Native women regarding sexual assault may be the sheer volume of issues that they must confront."[40] Teressa Nahanee has another perspective on the silencing of Aboriginal women's voices, particularly Inuit women who live in northern communities. As Nahanee points out, sexual abuse has become a fact of life in Inuit and other Native communities and yet "it is unfortunate that we, as Aboriginal women, must advocate stiffer jail sentences for our own people because we will be criticized for adopting the 'foreign' justice system."[41]

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[36] Statistics Canada, "Crimes by offences, provinces and territories," www.statcan.ca/english/Pgdb/State/Justice/legal.

[37] Margo L. Nightingale "Judicial Attitudes and Differential Treatment: Native Women in Sexual Assault Cases" (1991) 23:1 Ottawa L. Rev 71 at 75.

Despite this silence, piecemeal information is available. For instance, in a survey conducted for the Ontario Native Women's' Association, 57% of those surveyed said "sexual abuse was a feature of family violence in Aboriginal communities."[42] A 1984 Canadian Council on Social Development report indicated that there were problems with gang rapes in Native communities with girls being "initiated at tender ages by groups of boys and men."[43] A NWT survey indicated that 80% of girls and 50% of boys under the age of 8 were sexually abused.[44] In a presentation to the 9th Inuit Studies Conference of the Mianiqsijit Project, Rebecca Kudlo with Keewatin Divisional Board of Education estimated that in some northern communities, "between 80% to 100% of the population have been or are being sexually abused."[45] According to the Metropolitan Action Committee on Violence Against Women and Children, eight in ten Aboriginal women in Ontario reported having experienced violence and up to "75% of victims of sex crimes in Aboriginal communities are females under 18 years of age; 50% of those are under 14, and almost 25% are younger than 7 years of age."[46]

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[38] Ibid.
[39] Ibid.
[40] Ibid.
[41] Teressa Nahanee, "Sexual Assault of Inuit Females: A Comment on 'Cultural Bias'" in Julian V. Roberts and Renate M. Mohr, eds., *Confronting Sexual Assault: A Decade of Legal and Social Change* (Toronto: University of Toronto Press, 1994) 192 at 201.
[42] Ontario Native Women's Association *Breaking Free: A Proposal for Change to Aboriginal Family Violence* [Thunder Bay] 1989 at 17.
[43] G.S. Clark and Associates *Native Victims in Canada; Issues of providing Effective Assistance (Working Paper)* [Ottawa; Solicitor General of Canada, 1986] at 45.

The racialised aspects of sexual assault were not discussed in the 2002 newspaper coverage in part because few stories dealt with sexual assault thematically. There were only 112 stories (7.3% of the total stories) in which the race of the victim was mentioned. When coding for race, certain assumptions were made. For instance, if the story indicated that the sexual assault occurred inside an Aboriginal center or on a reserve, I assumed that the victim was Aboriginal. Of those stories, only 27.7% mentioned the race of the victim being Aboriginal (31 stories), while 25.9% featured a South Asian victim (29 stories). Another 13.4% stories featured victims who were Korean or Chinese (15 stories). The remainder were coded as other, with the victims coming from countries such as Bosnia, Sierra Leone, and South Africa (25.9% or 29 stories).

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[44] Canadian Panel on Violence Against Women *Final Report of the Canadian Panel on Violence Against Women* [Ottawa: Government of Canada, 1993] at 156.

[45] Rebecca Kudloo "Presentation to the 9th Inuit Studies Conference on the Mianiqsijit Project" [Yellowknife: Status of Women Council of the N.W.T., June 1994] at 3.

[46] Metropolitan Action Committtee on Violence Against Women and Children, "Statistics Sheet: Sexual Assault," www.metrac.org/new/stat_sex.htm.

Because the *Post* tended to have a higher percentage of stories about sexual assaults that occurred outside of Canada and the United States, it is not surprising that it ran a slightly higher number of stories in which the race of the victim is identified. A story regarding a South Asian victim of a gang rape in Pakistan was given a great deal of play in the *Post.* For this reason, 30.8% of the stories (8 stories) in the *Post* in which the victim's race is known, the victim's race was South Asian. The *Globe* gave that story slightly less priority and as a result only 23.8% of the stories in which the victim's race was known featured a South Asian victim from Pakistan (5 stories). The Aboriginal victim was described in one of the *Post's* stories (3.8% of the stories in which the victim's race is known) and in four stories in the *Globe* (19.0% of the stories in which the victim's race is known). Both the *Globe* and the *Post* ran three stories each with Asian victims (11.5% of the stories in which the race of the victim was known in the *Post* and in 14.3% of the stories in which the victim's race was known in the Globe). The only white victim in both papers was the investment banker who was raped in Central Park a number of years ago. New evidence exonerated the men accused of raping her and the victim's race was mentioned because the case was seen as an example of racism. According to one of the falsely accused men's lawyer: "In the racially inflamed climate of 1989, a well-to-do white woman was raped," and "because the suspects were black and Latino, this became an international case."[47]

One story that did deal with race in the *Post* was written by Christie Blatchford. In this piece, the victim is described in almost reverent terms. The victim's name, Delina Heng, was described by Blatchford as a "name that floats in the air – as the girl herself tiny bones and beautifully slender."[48] Blatchford portrayed Heng further as a "modest girl, who was a virgin and so shy she always changed clothes in the bathroom of the apartment she shared with her older sister."[49] The words used to describe Heng buy into the stereotypes of Asian women as the exotic Other. Aboriginal victims by contrast are not afforded the same reverence in the national papers. Take, for example, a *Globe* story that talked about the conviction of a "wealthy playboy" for sexual assaults against girls as young as 12. His victims were predominantly Aboriginal and in this article they were described as "drug addicts" and "prostitutes."[50] Their names apparently did not float in the air as they remain anonymous, faceless, nameless.

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[47] Araminta Wordsworth "DNA may clear five jailed for Central Park rape: jogger attacked in 1989" *National Post* (07 September 2002) A14.

Table 5.12: Race of victim by national newspaper

	National Post	***Globe and Mail***	**Total**
Aboriginal	1	4	5
% within paper	3.8%	19.0%	10.6%
White	1	1	2
% within paper	3.8%	4.8%	4,3%
Asian	3	3	6
% within paper	11.5%	14.3%	12.8%
South Asian	8	5	13
% within paper	30.8%	23.8%	27.7%
Other Races	13	8	21
% within paper	50.0%	38.1%	44.7%
Total	**26**	**21**	**47**
% within paper	**100%**	**100%**	**100%**

The race of the victim was not discussed in any detail in the local papers in 2002 either. The exception is the stories that ran in the *Winnipeg Free Press* about the sexual assault and murder of a young Aboriginal boy at an Aboriginal friendship centre in Winnipeg. This story was the reason why the *Free Press* had a large percentage of stories dealing with Aboriginal victims in 2002 (78.3% of the stories in which the victim's race is known or 18 stories). In Victoria, there were only three stories with an Aboriginal victim (21.4%), Toronto ran only two stories (10.5%) and Halifax had only 3 (23.1%). The Pakistan gang rape story was the reason for the high number of victims who were South Asian in all the local papers, with six stories in Victoria (42.9%), five stories in Toronto (26.3%), and six stories in Halifax (46.2%). A story about sexual assault with an Asian victim ran four times in Victoria (28.6%), once in Winnipeg (4.3%), three times in Toronto (15.8%) and twice in Halifax. Again, the stories that talked about the white victim were the stories regarding the exoneration of the men accused of raping a white investment banker in New York's Central Park in 1989.

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[48] Christie Blatchford "Unrepentant rapist thinks his time is served: Tien Po Su seeks early parole in death of Delina Heng" *National Post* (02 November 2002) A13.

[49] Christie Blatchford "Unrepentant rapist thinks his time is served: Tien Po Su seeks early parole in death of Delina Heng" *National Post* (02 November 2002) A13.

[50] Robert Matas "Kiddie stroll popularity remains high, activist says" *Globe and Mail* (06 February 2002) A8.

Table 5.13: Race of victim by local newspaper

	Victoria T.C.	*Winnipeg F. P.*	*Toronto Star*	*Halifax C.H.*	Total
Aboriginal % within paper	3 21.4%	18 78.3%	2 10.5%	3 23.1%	26 37.7%
White % within paper	1 7.1%	2 8.7%	3 15.8%	0 0.0%	6 8.7%
Asian % within paper	4 28.6%	1 4.3%	3 15.8%	2 15.4%	10 14.5%
South Asian % within paper	6 42.9%	0 0.0%	5 26.3%	6 46.2%	17 24.6%
Other % within paper	0 0.0%	2 8.7%	6 31.6%	2 15.4%	10 14.5%
Total **% within paper**	**14** **100%**	**23** **100%**	**19** **100%**	**13** **100%**	**69** **100%**

Including the victim's race does create a dilemma for journalists and editors. As one editor told me, race should not matter.[51] However, it is clear that race is talked about in certain circumstances. It can be used to glorify a victim or condemn her. Moreover, because there is no thematic analysis by any newspaper about the vulnerability of racialised women, particularly Aboriginal women, to sexual assault, there is no understanding of the impact of race. As a result, the papers ignore the fundamental understanding that sexual assault is an issue of power and the power dynamic may involve race. The more vulnerable the woman, the more likely she is to be victimized.

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[51] Interview of Bob Cox, former National Editor *Globe and Mail* (29 October 2004) in person at *The Globe and Mail* cafeteria in Toronto.

All stories were coded to determine the race of the perpetrator as well and again certain assumptions were made regarding race. If the news story did not specifically refer to the race of the assailant, then the perpetrator's race was coded as not known. As well, in the stories that talked about the sexual assault charges against Michel Chrétien, the son of former PM Jean Chrétien, the perpetrator's race was coded as Aboriginal only if the story mentioned that Michel had been adopted from an orphanage in Inuvik.

The race of the perpetrator was part of the news story more often than the race of the victim, largely because of the number of news stories that provided a description of a suspect being sought by police. Despite this, the numbers are still quite low, with only 153 stories describing the race of the perpetrator (10.0% of the stories overall). Because the focus of the national papers is on stories that would be of interest to a wide range of Canadians, they were unlikely to run stories from the police that describe the perpetrator's appearance, which often included reference to the individual's race. As a result, it was expected that discussions about the race of the perpetrator would be less dominant in the national newspapers than in local papers. However, this was not the case. Indeed, the *Post* ran 28 stories (11.3% of its overall stories) that described the perpetrator's race, compared to 36 stories in the *Globe* (15.6% of its overall stories).

Table 5.14: Race of perpetrator by national newspaper

	National Post	*Globe and Mail*	Total
Aboriginal % within paper	1 3.6%	3 8.3%	4 6.3%
White % within paper	0 0.0%	3 8.3%	3 4.7%
Asian % within paper	1 3.6%	3 8.3%	4 6.3%
South Asian % within paper	6 21.4%	6 16.7%	12 18.8%
Black % within paper	3 10.7%	7 19.4%	10 15.6%
Arab % within paper	2 7.1%	3 8.3%	5 7.8%
Other % within paper	15 53.6%	11 30.6%	26 40.6%
Total **% within paper**	**28** **100%**	**36** **100%**	**64** **100%**

In the national newspapers, the most dominant race descriptor was South Asian. Again, this was the result of the coverage in both newspapers regarding the gang-rape of a young South Asian woman in Pakistan. Both papers ran this story six times (21.4% of the stories in the *Post* that mentioned race and 16.7% of the stories in the *Globe*). A black perpetrator was identified in three of the *Post*'s stories (10.7%) and seven of the *Globe*'s (19.4%). An Asian perpetrator was identified in one story in the *Post* (3.6%) and three in the *Globe* (8.3%). The *Post* did not run a story that identified a white perpetrator while the *Globe* ran three (8.1%). Finally, an Arab perpetrator was identified in two stories in the *Post* (7.15%) and in three stories in the *Globe* (8.3%).

It is interesting that in two *Post* columns, the race of the perpetrator was made a central issue. The two columns reported on the sexual assaults of women by immigrant men and were shockingly anti-Muslim and xenophobic. In a column written on August 19th, Mark Steyn suggested Muslim men were raping women in Australia, Norway and Denmark but multicultural practises in those countries made these practises acceptable. Steyn suggested that "multiculturalism means the worst attributes of Muslim culture – the subjugation of women – combine with the worst attributes of Western culture – licence and self-gratification."[52] In a follow-up column, Steyn used the statistic that 68% of all rapes in Denmark were committed by an ethnic minority.[53] As Steyn rightly pointed out, there is no agreement on what ethnic majority actually means, but he then conflated ethnic minority with immigrant by posing the question: "Why do immigrants rape out of proportion to their numbers?"[54] He suggested that "immigration means more Danish women will be raped."[55] Not surprisingly, the victim is relegated to the final paragraphs in Steyn's column, when he finally pointed out that both Danish and ethnic minority women were being victimized.

Steyn's columns serve as an updated version of the racist stereotype documented by Helen Benedict that most rapes are "committed by black men against white women."[56] The new racist myth rewritten by Steyn that Muslim men are raping white women creates the mistaken understanding that women can recognize their rapists because they are the "other" and disregards the fact that most rapes are perpetrated by friends or even more chilling, family members. It also creates a new scapegoat in Canadian society – the immigrant and more specifically, the immigrant Muslim man who is depicted as someone at whom we should become angry. Because columns allow for dictates of objectivity to be ignored, Steyn was not required to seek out alternative perspectives to his opinion.

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[52] Mark Steyn "Multicularalists are the real racists" *The National Post* (19 August 2002) A14.
[53] Ibid.
[54] Ibid.
[55] Ibid.
[56] Helen Benedict, *Virgin or Vamp: How the Press Covers Sex Crimes* (Oxford: New York, 1992) at 15.

Balance was not required in this column and Steyn could provide his anti-Muslim stance without refutation.

Moreover, race and religion was also central to a feature length story in the *Post* which detailed the sexual assault charges laid against a teacher at the Islamic Learning Institute in Ajax, Ontario. Abdul Majid Khan was charged with eight counts of sexual assault, exploitation and interference.[57] Marina Jiminez described the sexual assault charges through the eyes of one of the complainants, a devout Islamic scholar who "has suffered the consequences of cooperating with police and stands accused by some elements in his community of the greatest crime of all: Bringing his religion into disrepute."[58] There was a sense of "otherness" in this account of sexual assault. Both the victim and the perpetrator were the "other" – Islamic men -- and the place in which the crime was committed is also foreign. Jiminez described the school as "an Arabic palace over the horse pastures of rural Ajax, 50 kilometres east of Toronto. No television, music, dating, alcohol, photographs, Sony Walkmans or radios are allowed."[59] Moreover, Jiminez wrote that the school's religious leanings has in other countries been linked with an anti-American perspective; however, she suggested that in Canada, "there is no call for jihad – a term meaning self struggle that can include a call to defend the faith if it is under attack."[60] The school was depicted as secretive, closed, and segregated. The crime became secondary to the religion and the race of the individuals involved.

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[57] Marina Jimenez "A Tale of Two Schools: In Ajax, Ont. Islamic Institute plays down sexual assault charges: Principal accused of crimes against four students" *National Post* (05 January 2002) B1.
[58] Ibid.
[59] Ibid.
[60] Ibid.

Table 5.15: Race of perpetrator by local newspaper

	Victoria T.C.	*Winnipeg F. P.*	*Toronto Star*	*Halifax C.H.*	**Total**
Aboriginal	0	5	1	5	11
% within paper	0.0%	41.7%	2.6%	25.0%	12.4%
White	1	3	18	0	22
% within paper	5.6%	25.0%	46.2%	0.0%	24.7%
Asian	6	0	0	2	8
% within paper	33.3%	0.0%	0.0%	10.0%	9.0%
South Asian	6	0	5	2	13
% within paper	33.3%	0.0%	12.8%	10.0%	14.6%
Black	1	1	8	0	10
% within paper	5.6%	8.3%	20.5%	0.0%	11.2%
Arab	1	0	1	0	2
% within paper	5.6%	0.0%	2.6%	0.0%	2.2%
Other	3	3	6	11	23
%within paper	16.7%	25.0%	15.4%	55.0%	25.8%
Total	**18**	**12**	**39**	**20**	**89**
% within paper	**100%**	**100%**	**100%**	**100%**	**100%**

Surprisingly, race at the local level was not mentioned as often compared to the national papers. As I discussed earlier, I anticipated that race of the perpetrator would be mentioned more often in the local papers than in the national papers because I expected it would be provided in police descriptions of local sexual assault suspects. However, in the local papers that was not the case. In the *Times Colonist* referred to the race of the perpetrator in only 18 stories (7.2% of its stories), while the *Free Press* mentioned race in 12 stories (5.9%), and the *Chronicle Herald* in 20 stories (6.8%). The *Star* talked about the perpetrator's race in 39 stories (13.3% of its stories). Many of those stories were police descriptions of the assailant. Conversely, in the national papers, race was used in the context of an international story regarding sexual assault.

The *Toronto Star* had the most stories that described the perpetrator's race and this again is due in part to the number of news stories that describe police efforts to catch a sexual assault suspect, complete with a description of the perpetrator. Because of this, 39 stories in the *Star* talked about the race of the perpetrator, eighteen of which (46.2%) had a white perpetrator. There were eight stories in which the assailant was described as black (20.5%), one story with an Aboriginal perpetrator (2.6%), five that had a South Asian attacker (12.8%) and one with an Arab assailant (2.6%). Halifax ran 20 stories that described the perpetrator's race, while Victoria ran 18 and Winnipeg had only 12. The Aboriginal perpetrator was discussed in five of both the *Free Press's* (41.7%) and *Chronicle Herald*'s (25.0%) reports. The rape story in Pakistan was behind the relatively high number of stories with a South Asian assailant, with Victoria running the story six times (33.3%) and Toronto featuring it five times (12.8%).

As indicated earlier, there has been some debate about whether race should be made an issue in the news coverage of sexual assault. A column written by *Star* columnist Don Sellar on May 11, 2002 talked about the decision by the newspaper to not release the racial identity of a man sought in a sexual assault. Sellar wrote that using the "race label Asian, possibly Filipino," in a news story about rape would "link a law-abiding racial group to individual crooks" in an unfair way.[61] Sellar and the *Star* were criticized by readers for being too "politically correct."[62] However, as Sellar put it, he remained unrepentant, suggesting that using "hazy race-based descriptions don't catch many crooks."[63]

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[61] Don Sellar "A kerfuffle with readers over race labels" *Toronto Star* (11 May 2002) H06.
[62] Ibid.
[63] Ibid.

Stranger Attack

According to Statistics Canada, about 20% of sexual assaults involve stranger attacks, but the percentages climb to 31% for adult women and 23% for adult men.[64] In other words, it is adults (and more predominantly women) and not children who are more likely to be attacked by a stranger. Again however, there is evidence that the media create a distorted understanding about the stranger rape. McCormick's analysis of news coverage of sexual assault cases in 1993 in Halifax suggested that rape stories in the media are "slanted towards sensational crimes committed by strangers."[65] Cynthia Carter's analysis also suggests that the most "frequently featured offender is the male stranger."[66] An analysis of the coverage of sexual assault crimes in the 1980s by Maria Løś and Sharon Chamard determined that coverage of sexual assaults by a stranger was dominant in the print media prior to the implementation of sexual assault reforms but "this tendency had virtually disappeared by 1983."[67] Løś and Chamard suggest that changes to sexual assault legislation had a direct effect on how sexual assault was reported by the media:

> Prior to the passing of the legislation, the media in our study tended to report those cases that conformed to the vision of the archetypal rape by a stranger or someone the victim barely knows. In this vision of rape, the woman is more likely to be perceived as non-provocative, and the victim of a sex-crazed man who grabs her on the street or breaks into her home. The period after the legislation showed the media more willing to report on acquaintance rape and thus present a more realistic view of rape.[68]

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[64] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, no. 6) at 8.

[65] Chris McCormick, *Constructing Danger: the mis/representation of crime in the news* (Halifax: Fernwood, 1995) at 29.

[66] Cynthia Carter, "When the 'extraordinary' becomes 'ordinary': Everyday news of sexual violence" in Cynthia Carer, Gill Branston and Stuart Allan eds. *News, Sex and Power* (London: Routledge, 1998) 219 at 230.

[67] Maria Łoś and Sharon E. Chamard "Selling newspapers or educating the public? Sexual violence in the media" (1997) 30 Can. J. Crim. at 303.

[68] Ibid.

This over-emphasis on the stranger attack determined by previous studies may be a function in part of the police decision to release information about sexual assaults that are a public safety issue, particularly the use of police warnings to women about stranger rapes. Overall, this analysis determined that only 19.4% of the stories featured a stranger attack in the stories that detailed whether the attacker was known to the victim, while 80.6% made it clear that the perpetrator and victim knew each other. I defined stranger attacks as stories in which the sexual violence was perpetrated by a total stranger. The victim had never met the individual, had no reason to have any social interaction with the perpetrator, and the attack was a random one, usually occurring on the street.

Random sexual assault crimes made up only 17.7% of the coverage in the national newspapers (55 stories) with the *National Post* running 17.2% of its news coverage (26 stories) on the stranger attack and the *Globe and Mail* running 18.1% (29 stories) of its stories. This is lower than the statistical average. One explanation for this may be the fact that the national newspapers' focus is on stories that are of interest to a national audience and thus, random sexual assaults by strangers may not be considered important enough. As well, since the police departments surveyed indicated that they tended to release information regarding sexual assault when it was a public safety issue, warning women that a sexual assault suspect is randomly attacking women in Winnipeg would appear to be out of the domain of a national paper.

Table 5.16: Stranger attack by national newspaper

	National Post	*Globe and Mail*	**Total**
Yes % within paper	26 17.2%	29 18.1%	55 17.7%
No % within paper	125 82.8%	131 81.9%	256 82.3%
Total **% within paper**	**151** **100%**	**160** **100%**	**311** **100%**

Given the relationship between police and the media at the local level, it was expected that the local papers would have a higher percentage of reports of stories about stranger sexual attacks than the national papers whose focus is more on the stories of national interest. Indeed, this appears to be the case in all the local papers except for Halifax. In Victoria, Winnipeg and Toronto, stories about sexual assaults by a stranger ranged from 31.9% in the *Star* (74 stories) to 20.4% in the *Times Colonist* (31 stories). The *Winnipeg Free Press* wrote 23.1% of its stories about a stranger attack (31 stories). In Halifax, stranger sexual assaults made up only 4.3% of the stories (eight stories). Again, this is likely due to the fact that the Halifax Regional Police did not have a unit dedicated to sexual assault crimes in 2002 and sent out few media releases regarding the crime while Toronto Police send out numerous news releases.

Table 5.17: Stranger attack by local newspaper

	Victoria T.C.	*Winnipeg F. P.*	*Toronto Star*	*Halifax C.H.*	**Total**
Yes % within paper	31 20.4%	31 23.1%	74 31.9%	8 4.3%	144 20.3%
No % within paper	121 79.6%	103 76.9%	158 68.1%	180 95.7%	562 79.6%
Total **% within paper**	**152** **100%**	**134** **100%**	**232** **100%**	**188** **100%**	**706** **100%**

The *Toronto Star* ran far more stories about a random stranger assault. Further, in stories where the victim's age is known and there was enough information provided to determine if it was a random attack, 14.8% (30 stories) had a child victim while 16.3% (33 stories) had an adult victim.[69] Certainly the idea of a child being raped by a stranger could be categorized as a horrendous crime and it fulfills the news value of drama; however, the difference in numbers may again be a reflection of the Toronto Police Service's commitment to warning the public about sexual assaults.

Sources

There is evidence that sexual assault is viewed through a phallocentric lens. In Chapter 2, I discussed Smart's assertion that the depictions of sexual assault in legal trials and in its media accounts are phallocentric because "they disqualify women's experience of sexual abuse."[70] As Smart outlines, phallocentrism is the "prevailing dominance of the masculine experience of, and the meaning of, sexuality."[71] Smart suggests that the disqualification of women's experience of sexual assault in the trial process is a celebration of "the deep-seated notions of natural male sexual need and female sexual capriciousness."[72]

Women's experience of sexual assault is further disqualified through the use of sources in 2002. In this study, sources were used in 85.3% of the stories (1307 stories) and the majority of those sources were male. The use of sources has a direct impact on how a story is framed and according to Teun van Dijk the use of sources has several important news functions. Firstly, prominent sources may be "newsworthy in their own right, simply because they express the interpretation or opinions of important news actors."[73] Secondly, news stories with quotations are seen as more interesting to read because of the injection of narrative. Moreover, sources "enhance the credibility of the account, since their use suggests what credible news participants say about the events."[74] Perhaps most importantly, sources "allow the insertion of subjective interpretations, explanations, or opinions about current news events, without breaking the ideological rule that requires the separation of facts from opinions."[75] If male sources are the dominant sources, then the subjectivity is from a male perspective. So while sexual assault is a predominantly women's issue, it is discussed in the news with a male voice.

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[69] The victim was 18 years of age or older.
[70] Carol Smart, *Feminism and the Power of Law* (London: Routledge, 1989) at 49.
[71] Ibid at 28.
[72] Ibid at 35.

It is not only important to understand who is quoted or considered a source by the media, it is also important to who is quoted first. In news discourse, "the most important or relevant information is put in the most prominent position."[76] Thus the person quoted first in a news story is considered to express the dominant idea, while the second source is put into the position of refuting or reinforcing the first source's perspective. In 2002, the most prevalent first source was the police and this finding is in keeping with Steven Chermak's assertion that the media "obtain story information from criminal justice sources because they are conveniently accessible."[77] Chermak contends that this influences how crimes are presented overall, because criminal justice organizations, particularly the police, are interested in promoting justice and thus they will attempt to control "the selection and production of news images" that present the justice system in a positive manner. The police "appear often in the news and most police stories reflect positively on police performance."[78]

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[73] Teun A. van Dijk , *Racism and the Press* (London: Routledge, 1991) at 152.
[74] Ibid.
[75] Ibid.
[76] Teun A. van Dijk, *News as Discourse* (Hillsdale: Lawrence Erlbaum Associates, 1988) at 43.
[77] Steven M. Chermak, "Police, Court and Corrections in the Media" in Frankie Y. Bailey and Donna C. Hale, eds., *Popular Culture, Crime and Justice* (Belmont: West Wadsworth Publishing, 1998) 87 at 89.

Not all sources are equal. As van Dijk points out, the media tend to rely on what are considered primary sources in their handling of news stories and this is certainly the case in sexual assault stories. Police, Crown prosecutors, defence lawyers, church officials, school or university authorities, judges, government, parole and corrections officials and hospital authorities were classified as primary sources, while the victim, the perpetrator, sexual assault centre sources, organizations for the wrongfully accused, and witnesses were coded as secondary sources. In 2002, news coverage regarding sexual assault relied on a primary source as the first person quoted in 67.7% of the cases and the second person quoted was a primary source in 60.6% of the cases. Thus, the cultural script or story about sexual assault relies on an official perspective.

Reporters covering sexual assault cases must rely on police news releases and court testimony to cover these crimes. As Teun van Dijk points out, the information provided in the indirect and discursive texts of court testimony or police news releases are often "more extensive than the intended news reports" and thus, "their information must be severely reduced."[79] Van Dijk suggests as a result, that sources viewed as more credible or authoritative will be quoted prominently in news.[80]

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[78] Steven M. Chermak, "Police, Court and Corrections in the Media" in Frankie Y. Bailey and Donna C. Hale, eds., *Popular Culture, Crime and Justice* (Belmont: West Wadsworth Publishing, 1998) 87 at 90.
[79] Teun van Dijk, *Racism and the Press* (New York: Routledge, 1991) at 151.
[80] Teun van Dijk, *News as Discourse* (Hillsdale: Lawrence Erlbaum Associates, 1988) at 119.

Van Dijk indicates that by picking and choosing their sources and giving primacy to one over the other, the media can insert subjective interpretations of their stories while maintaining an aura of objectivity. The result is that the news can be framed in a biased manner because journalists "can easily practise selective reporting, attributing their views to outside sources and omitting information that does not fit their slant."[81] McCormick argues that by focussing on the police and their perspective, the media miss the alternative perspective found in interviews with sexual assault crisis centres or other professionals. The definition of sexual assault is "constructed by the police and the police emerge as authorities in the news accounts."[82]

Nationally in 2002, sources were used in 191 of the *National Post* stories (77.3% of its stories) and in 189 of the *Globe and Mail* stories (81.8% of its stories). Perhaps not unexpectedly, the "in-brief" stories were more likely than any of the other types of stories to not use sources. Over 87% of the in-brief stories did not have a source (87.6% or 88 stories). In coverage of sexual assault stories at the national level, it becomes clear that the police have access to the media. The first person quoted most often in both newspapers was a police officer in 19.5% of the coverage (74 stories). In the *Post*, a police officer was quoted first in 17.3% of the stories (33 stories), while in the *Globe*, s/he was quoted in 21.7% of the stories (41 stories). The most frequent sources quoted first in the *Post* were the police, followed by the perpetrator, who was quoted first in 13.1% of the stories (25 stories), church officials who were quoted first in 11.5% of the stories (22 stories), and the victim who was quoted first in 8.9% of the stories (17 stories). Sources that fit into the "other" category were quoted first in 8.4% of the coverage in the *Post* (16 stories). The remainder of the news sources quoted first were used in fewer than 10% of the stories in both the *Post* and the *Globe*.

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[81] Katherine Bennett, W. Wesley Johnson, and Ruth Triplett, "The Role of the Media in Reintegrative Shaming; A Content Analysis" in Frankie Y. Bailey and Donna C. Hale, eds., *Popular Culture, Crime and Justice* (Belmont: West Wadsworth Publishing, 1998) 143 at 143.

[82] Chris McCormick, *Constructing Danger: the mis/representation of crime in the news* (Halifax, Fernwood Publishing, 1995) 30.

The top news sources for the *Globe* were slightly different. As already indicated, the police department was the most widely used first source, followed by sources that were coded as "other" (24 stories or 12.7% of the coverage). The Crown prosecutors or district attorneys and the victim were both the first source quoted in 9.5% of the coverage (18 stories) and the perpetrator was quoted first in 9% of the *Globe*'s coverage (17 stories).

There are two main differences in coverage between the two national newspapers. First, the *Post* quoted a perpetrator first in 25 of its stories (13.1%), but the victim was quoted first in only 17 stories (8.9%). The *Globe* was much more even-handed in its approach, quoting the perpetrator and the victim almost equally in its coverage. Second, unlike the *Globe*, the *Post* tended to shy away from the official legal sources such as the Crown Attorney or defence lawyer in its coverage of sexual assault

Table 5.18: First person quoted by national newspaper (top-ten)

	National Post	*Globe and Mail*	Percent
Police Officer % within paper	33 17.3%	41 21.7%	74 19.5%
Perpetrator % within paper	25 13.1%	17 9.0%	42 11.1%
Victim % within paper	17 8.9%	18 9.5%	35 9.2%
Church % within paper	22 11.5%	12 6.3%	34 8.9%
Crown Prosecutor/DA % within paper	14 7.3%	18 9.5%	32 8.4%
Defense % within paper	5 2.6%	14 7.4%	19 5.0%
Trial Judge % within paper	7 3.7%	8 4.2%	15 3.9%
Victim's Parents % within paper	9 4.7%	6 3.2%	15 3.9%
Government % within paper	7 3.7%	7 3.7%	14 3.7%
Other % within paper	16 8.4%	24 12.7%	40 10.5%

As expected, the sex of the first person quoted in the national newspapers was predominantly male (58.2% or 221 stories). In the *National Post*, the first person quoted was a man in 56% of the stories (107 stories), while the *Globe* had a male first source in slightly more stories at 60.3% of the coverage (114 stories). Women were the first person quoted in slightly more than one-fifth of the stories (21.1% or 80 stories). The *Post* had a woman source first in 23.8% of its coverage (45 stories) while the *Globe* had a woman source first in only 18.5% of its coverage (35 stories). Despite the fact that sexual assault crime is a crime that predominantly victimizes women, the male voice is given symbolic access in media coverage. Women are for the most part silenced.

Table 5.19: Sex of first person quoted by national newspaper

	National Post	*Globe and Mail*	Percent
Male % within paper	107 56.0%	114 60.3%	221 58.2%
Female % within paper	45 23.8%	35 18.5%	80 21.1%
Not Applicable/Unknown % within paper	39 20.4%	40 21.1%	79 20.8%
Total **% within paper**	**191** **100%**	**189** **100%**	**380** **100%**

The local newspapers also relied on sources to tell their stories in 2002. A source was quoted or paraphrased in 927 stories (88% of the total coverage). The *Victoria Times Colonist* was more likely than any other newspaper to use a source, with 92% of its stories containing a news source (229 stories). The *Toronto Star* had the fewest stories with a source at only 84% (247 stories). Again, not surprisingly, the majority of the sources quoted first were male (60.6% or 562 stories). Winnipeg had the highest percentage of male sources in the first quotation, with 65.7% of its stories (113 stories) quoting a man first. The *Toronto Star* had the lowest percentage of male sources quoted first, with only 49.8% (123 stories). This was surprising, given that the Toronto Police Service has a media department that is run by a male civilian. It suggests that the newspapers may not rely solely on the media relations department for their quotes, but go to alternative police sources.

Table 5.20: First source quoted by local newspaper (top-ten)

	Victoria T.C.	Winnipeg F. P.	*Toronto Star*	Halifax C.H.	Total
Police Officer	51	41	81	34	207
% within paper	22.3%	23.8%	32.8%	12.2%	22.3%
Perpetrator	25	23	30	45	123
% within paper	10.9%	13.4%	12.1%	16.1%	13.3%
Victim	20	11	25	46	102
% within paper	8.7%	6.4%	10.1%	16.5%	11.0%
Crown/DA	17	23	21	26	87
% within paper	7.4%	13.4%	8.5%	9.3%	9.4%
Defense	15	24	14	20	73
% within paper	6.6%	14.0%	5.7%	7.2%	7.9%
Church	24	8	9	24	65
% within paper	10.5%	4.7%	3.6%	8.6%	7.0%
Trial Judge	11	16	15	13	55
% within paper	4.8%	9.3%	6.1%	4.7%	5.9%
Government	12	4	5	12	33
% within paper	5.2%	2.3%	2.0%	4.3%	3.6%
Victim's Parents	7	6	5	8	26
% within paper	3.1%	3.5%	2.0%	2.9%	2.8%
Other	18	8	21	19	66
% within paper	7.9%	4.7%	8.5%	6.8%	7.1%

As expected, the local papers like the national papers relied heavily on the police for information. The most frequent source quoted first was the police department (22.3% or 207 stories). The *Halifax Chronicle Herald* quoted a police officer first in only12.2% of its stories (34 stories). By comparison, the *Toronto Star* quoted the police first in 32.8% of its stories (81 stories), and the *Free Press* used a police officer first in 23.8% of its stories (41 stories). A police officer was quoted first in the *Victoria Times Colonist* in 22.3% of its stories (51 stories). This reinforces the assertion that the more involved the police department is in sending out news releases, the more the media rely on it for information about sexual assault. Remarkably, the victim was the most frequent first source in Halifax, being quoted in 16.5% of the stories in 2002 (46 stories).

It is interesting, however, that the Halifax newspaper is the only paper that does not have the police department as its number one source for information about sexual assault. In fact, the first source quoted most frequently was the victim in the *Chronicle Herald* (at 16.5% or 46 stories) followed by the perpetrator (at 16.1% or 45 stories). The police department is the first source for information about sexual assaults in only 12.2% of the stories (32 stories). This reflects the fact that the police in Halifax did not release much information about sexual assaults in 2002. This compares dramatically to the Toronto paper which quoted the police first in more than 30% of its stories (32.8% or 81 stories). As Ericson, Baranek and Chan discovered in their research with the Toronto Police Service, "compared to court officials, the police were much more actively involved with, and concerned about the news. They recognized the power of the news, and wanted to harness it to their advantage while avoiding its negative repercussions on their working conditions and activities."[83]

Table 5.21: Sex of first source by local newspaper

	Victoria T.C.	**Winnipeg F. P.**	***Toronto Star***	**Halifax C.H.**	Total
Male % within paper	149 65.1%	113 65.7%	123 49.8%	177 63.4%	562 60.6%
Female % within paper	51 22.3%	33 19.2%	58 23.5%	66 23.7%	208 22.4%
Not Applicable % within paper	12 5.2%	1 .6%	5 2.0%	15 5.4%	33 3.6%
Not Known % within paper	17 7.4%	25 14.5%	61 24.7%	21 7.5%	124 13.4%
Total **% within paper**	**229** **100%**	**172** **100%**	**247** **100%**	**279** **100%**	**927** **100%**

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[83] Richard V. Ericson, Patricia M. Baranek, Janet B.L. Chan, *Negotiating Control: A Study of News Sources* (Toronto, University of Toronto Press, 1989) at 171.

Since the police control what is determined to be crime and what is not, this means that through the news, police act "as the fulcrum of the state control apparatus" and they are used to represent the "state's moral authority on an everyday basis."[84] Because of their privileged expertise in the area of crime, "[a]ll other forms of expertise must address that frame and have their own frames contextualized in terms of it."[85] Thus, the state through the police set the frame of law and order and crime prevention in the newspapers and most sources must either fit that dominant frame or contest it.

The number of sources used declined when coding for the second source and the type of sources also changed. Only 54.2% of the total stories (259 stories) used a second source. The *Post* had a second source in 57% of its stories (142 of its total stories) and a second source was used in 54.2% of the *Globe* stories (117 stories). At the local level there were 681 stories with a second source (64.6% of the stories). The *Halifax Chronicle Herald* had a second source in 74.3% of its stories (229 stories), while the *Winnipeg Free* Press had a second source in 57.6% (117 stories) of its stories. The *Victoria Times Colonist* had a second source in 67.46% of its stories (168), while the *Toronto Star* carried a second source in 56.8% of its stories (167 stories). The difference between the local and national papers in using a second source may be because of the large number of short stories in the national papers which do not provide space for a second source. This also suggests that the newspapers both at a local and national level do not provide potentially alternative perspectives on the issue of sexual assault. In other words, unlike a political story where an government member and then an opposition member is quoted, crime stories and more specifically stories about sexual assault are not seen to require a second point-of-view.

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[84] Ibid at 170.
[85] Ibid at 169.

The use of primary sources drops when it is the second source quoted. Primary sources are considered official sources such as police, court officials and government spokespersons. In the *Post* the use of primary sources fell almost 6% to 53.5% of the *Post* stories (76), while the use of primary sources dropped more than 12% in the *Globe* to 51.3% (or 60 stories). This suggests that both papers relied on the official version of events surrounding sexual assault as their first source, often placing the secondary source in the position of having of refuting or supporting the primary or official voice.

The most frequent second source quoted in the *Post* was the police and church officials. Both were quoted 16 times (11.3% of the coverage). For the *Globe*, the most frequent second source quoted was the police and the perpetrator at 13.7% of the stories with a second source quoted (16 stories).[86] The victim was quoted as a second source in 10.6% of the stories in the *Post* (15 stories) while the perpetrator was the second source in 7.7% of the stories (11 stories). In the *Globe*, the defence was the second source quoted in 10.3% of the stories with a second source (12 stories) and the Crown was the second source quoted in 8.5% of the stories (10 stories). All the other second sources at the national level fell below 10%.

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[86] In both newspapers, the "other" category is actually the most frequently source quoted second in the newspaper and made up of a diverse number of sources.

Table 5.22: Second source quoted by national newspaper (top-ten)

	National Post	*Globe and Mail*	Total
Police Officer % within paper	16 11.3%	16 13.7%	32 12.4%
Perpetrator % within paper	11 7.7%	16 13.7%	27 10.4%
Defense % within paper	11 7.7%	12 10.3%	23 8.9%
Victim % within paper	15 10.6%	8 6.8%	23 8.9%
Church % within paper	16 11.3%	3 2.6%	19 7.3%
Victim's Family % within paper	7 4.9%	7 6.0%	14 5.4%
Women's Support Group % within paper	5 3.5%	8 6.8%	13 5.0%
Government % within paper	2 1.4%	7 6.0%	9 3.5%
Newspaper/Magazine % within paper	6 4.2%	0 0.0%	6 2.3%
Other % within paper	23 16.2%	16 13.7%	39 15.1%

Not surprisingly, the sex of the second source quoted was also predominantly male. In the *Post*, the second source quoted was male in 55.6% of the stories (79) and 57.3% of the *Globe* stories had a male second source (67 stories). Only 27.5% of the sources quoted second were female in the *Post* (39) and in the *Globe*, the number was even smaller, dropping to 25.6% (30). In the remainder of the stories the sex was not known or the sources were documents in which the sex was not applicable.

When the *Post* and the *Globe* quoted the police first, the majority of the time, it quoted another police officer as its second source as well.[87] Surprisingly, the *Globe* also relied on an organization that spoke on behalf of the victim just as frequently as its second source, when police were quoted first. This suggests that in the *Post* at least, police are seen as the definitive source for information on the news and because of this, their perspective is not challenged or refuted by the second source. In the *Globe*, the perspective of the police is challenged by organizations that speak on behalf of women, like sexual assault centres.

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[87] In cases when the second source quoted was the "other" category, I went to the next most frequent categories.

When the victim was quoted first in the *Post*, its most frequent second source was the police, while in the *Globe* its most frequent second source was another victim. Again, this suggests the privileging of the police perspective by the *Post*, while the *Globe* tended to put an emphasis on the victims' versions of events. Conversely, when the perpetrator was the first person quoted in the *Post*, the second person quoted was the victim and in the *Globe* it was the defence. By putting the perpetrator first and the victim second, the *Post* creates a "he says-she says" dichotomy which pits the perpetrator's version against the victim's. In the *Globe*, the outcome of this is that the perpetrator's version of the events is presented without an alternative perspective.

As stated earlier, the local papers did run more stories with a second source than did the national newspapers. Unlike the national papers which still relied on the police as a second source, the most frequent second source quoted in the local newspapers was the victim (96 or 14.1% of the stories). The *Chronicle Herald* featured the victim as a second source in 15.7% of its stories (36 stories), while the *Times Colonist* quoted or paraphrased the victim in 12.5% of its stories (21 stories). The defense was quoted or paraphrased second in 12% of the stories (82 stories), with Winnipeg relying on the defence as a second source in 20.5% of its stories (24 stories), while the *Star* only used it as a second source in 8.4% of its stories (14 stories). The perpetrator came in third, with 11.6% of the stories (79 stories) and the police came in forth at 11.5% of the stories (78 stories). The remainder of the second sources fell below 10%.

Table 5.23: Second source quoted by local newspaper (top-ten)

	Victoria T.C.	Winnipeg F. P.	*Toronto Star*	Halifax C.H.	Total
Victim	21	16	23	36	96
% within paper	12.5%	13.7%	13.8%	15.7%	14.1%
Defense	19	24	14	25	82
% within paper	11.3%	20.5%	8.4%	10.9%	12.0%
Perpetrator	22	12	21	24	79
% within paper	13.1%	10.3%	12.6%	10.5%	11.6%
Police Officer	14	16	24	24	78
% within paper	8.3%	13.7	14.4%	10.5%	11.5%
Crown/DA	8	11	13	19	51
% within paper	4.8%	9.4%	7.8%	8.3%	7.5%
Church	17	7	7	18	49
% within paper	10.1%	6.0%	4.2%	7.9%	7.2%
Trial Judge	4	4	9	16	33
% within paper	2.4%	3.4%	5.4%	7.0%	4.8%
Victim's Parents	8	4	9	10	31
% within paper	4.8%	3.4%	5.4%	4.4%	4.6%
Government	6	4	3	16	29
% within paper	3.6%	3.4%	1.8%	7.0%	4.3%
Other	21	10	23	17	71
% within paper	12.5%	8.5%	13.8%	7.4%	10.4%

The use of secondary sources such as the victim and the perpetrator in the local papers suggests that the official voices – the primary sources of the police and court actors – can be refuted by secondary sources which appear later in the story. It is also clear that, in the local papers, if the first source quoted is the perpetrator, the most common second source quoted is the victim. The same can be said if the first source is the victim – the second source is then most commonly the perpetrator. As well, if the first source quoted is the Crown, the most common second source is the defence. If the first source is the defence, the most common second source is the victim. Clearly, there is an attempt at providing some balance in reporting on sexual assault crimes, particularly in the trial process.

Again, however, the second source quoted at the local level is also most commonly a man. The second source quoted in the local papers was a man in 63.9% of the stories (435), while a woman was quoted or paraphrased in only 23.6% of the stories (161 stories). In 85 stories (12.4%) the sex was either unknown or not applicable.

Conclusion

This chapter looked at how the victims and the perpetrators were depicted in the newspaper stories in 2002. It became clear that the news value of novelty played an important role in the way sexual assault crimes were depicted. There was a clear over-representation of the male victim and the female perpetrator as a result of two high profile court cases involving female teachers and their male students. There was also an over-representation of the child victim. This again distorts our understanding of sexual assault. Sexual violence against male victims and children are deemed important, while the enormity of sexual violence against women is not reflected accurately. As well, because there was an emphasis on covering crimes that involved children, there also appeared to be a focus on sexual assault cases that occurred prior to 1997. As will be detailed in the next chapter, because of the difficulties associated with getting a conviction in these cases, the unanticipated outcome of covering these cases is the substantiation of the rape myth that innocent men are being charged with rape.

As I stated earlier in this chapter, rape is a sex issue but it is also a race issue and this too was an aspect that was ignored. Because there are few stories that write in detail about the societal aspects of sexual assault (see Chapter 3), there are few stories that discussed the vulnerability of minority women and in particular Aboriginal women to sexual violence. The silence on this issue also distorts our understanding about sexual violence.

It is apparent that the stories written about sexual violence are not written from a woman's perspective. Women are not the primary source of information. It is men that provide the perspective on sexual assault, likely because the sources that the newspapers rely on for information are in male-dominated fields like police and law. Secondary sources that could provide a female perspective on this issue, like sexual assault centres, are not utilized. Instead, news about sexual violence is told from an official perspective in a male voice.

There is some reason to be optimistic however about the coverage of sexual assault. The focus on random acts of sexual violence against women has shifted to a more realistic portrayal of rape. Unlike earlier analysis on crime, the stranger attack was not as salient in 2002. Indeed, the number of random attacks reported in the newspapers is close to the statistical reality.

Chapter 6 – The Rape Myths

"A raped woman is framed socially and within the law as something broken. Neither Madonna nor whore but somewhere in between. The carrier of bad luck. There is a general but grudging acceptance that it isn't really her fault, but if she had done something else, gone in another direction, not had that drink or worn that dress or smiled that way, it might never have happened.."[1]

The previous chapters in this study provided an overview of the agenda setting and framing functions of the newspapers in telling the story about sexual violence. Since the main question of this thesis was whether or not sexual assault myths or stereotypes remain dominant in newspaper coverage of sexual assault crimes, it was important to determine if each of the stories under consideration contained sexual assault myths. Myths can be defined as the stories society considers important.[2] Further, myths are told in such a way that all of society is convinced that they have salience.[3] According to Janice DuMont and Deborah Parnis, rape myths can be defined as "prejudicial, stereotyped, or false beliefs about rape, rape victims and rapists."[4] These myths are so embedded in our consciousness that they are often accepted without little contestation. This section of the analysis looks at how deeply ingrained the myths are in the newspapers' telling of the story of rape.

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[1] Jane Doe, *The Story of Jane Doe: A book about rape* (Toronto: Random House, 2003) at 118.

[2] Eric Csapo, *Theories of Mythology.* (Malden: Blackwell, 2005) at 9.

[3] Ibid.

[4] Janice DuMont and Deborah Parnis , "Judging Women: the pernicious effects of rape mythology" (1999) 19 Canadian Women's Studies. 102 at 102.

Understanding the use of rape myths in English Canada's newspapers is important because as DuMont and Parnis suggest, these myths "underlie and fuel violence against women and inform the negative societal reactions to those who have been sexually assaulted."[5] As well, the rape myths "serve to trivialize, justify and deny sexual assault."[6] It must be made clear however, that the appearance of rape myths in the newspapers under study does not suggest in any way wrongdoing on the part of the journalist. I am not arguing that journalists deliberately invoke stereotypes about sexual assault. Instead, I would argue it is the journalists' reliance on sources, particularly official sources such as the police and court officials, that has an impact on the prevalence of rape myths. Further, I am suggesting that because the myths and stereotypes are so culturally engrained, journalists may not question their use or provide alternative perspectives. Ultimately, the decision about how the story is going to be presented in the daily news remains with the journalists and the editors.

As I explained in Chapter 2, I used the rape myths outlined by Helen Benedict in her book *Virgin or Vamp: How the Press Cover Sex Crimes* as a template for coding all the stories in the newspapers under study and made a number of significant findings. First, the use of sexual assault myths and stereotypes in English Canadian newspapers continues twenty years after legislative changes were implemented. Second, the conflation of sexual violence with sex or lust continues in the newspapers' telling of the story. This means that the reforms of the legislation aimed at removing the focus away from the sexual features of the crime to the assaultive aspects has not been successful. Rape is still viewed in the newspapers as “sex gone wrong.” As well, there is still a wide-spread belief that innocent men are being arrested for rape, despite evidence to the contrary. The victim’s bad reputation and conversely the perpetrator’s good reputation are also inherent in the coverage of the stories about sexual assault. Again, this suggests that reforms aimed at preventing the victim’s history, and in particular her sexual history from being used against her at trial, have not been as successful as hoped. Additionally, it becomes clear that the state, through the police, indict the victim for provoking the sexual violence through her behaviour prior to the rape. Finally, the perpetrator remains the “other” -- the easily identifiable foreigner, rather than what statistics reveal him to be – our next door neighbour, our father or our boyfriend.

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[5] Ibid.
[6] Ibid.

What Are The Rape Myths?

In Chapter 2, I outlined the main rape myths that remain embedded in society’s understanding about rape. The news stories from the newspapers were coded to determine if they contained myths about sexual assault. Once I determined that a rape myth was present in a news story, I coded further to determine which rape myth was used. Stories could and did have more than one rape myth. I used Benedict’s analysis as a guideline and the rape myths I coded for were: rape is sex; the assailant is motivated by lust; the assailant is perverted or crazy or “couldn’t help himself”; the victim provoked rape; the victim was “loose”; the sexual attack sullied the victim; the victim cried rape out of revenge; the victim was lying; the rapist is the “other”; innocent men are being accused of rape; the victim has a bad reputation; the perpetrator has a good reputation and pedophiles are gay. These were the rape myths that I looked for when reading the news articles in the study and I determined that the majority of the stories (56.8% or 870 stories) published in 2002 in the newspapers under consideration contained at least one rape myth.

It is important to note that in many of these stories, the purveyors of the myth were the official sources quoted by journalists. However, as I have outlined in previous chapters, the use of sources is not an objective action. Van Dijk argues that sources provide subjective interpretations or evaluations of news stories without breaking the journalistic rule of separating fact from opinion.[7] As outlined in Chapter 2, Hackett and Zhao contend further that journalism, despite its claims to objectivity, enforces dominant social behaviours.[8] In this study, it becomes clear that the reporters do not provide alternative frames to the myths and stereotypes offered by official voices. There is no contestation of the facts as they are presented and as such they reinforce the "values, norms and conventions" of the status quo.[9]

Rape myths were used in 58.4% of the news stories on sexual assault in both national newspapers (279 stories). Close to 60% (59.5%) of the coverage in the *National Post* (147 stories) contained a rape myth and 57.1% of the *Globe and Mail*'s stories (132) featured a rape myth. Neither national paper was more likely than the other to use rape myths.

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[7] Teun A. van Dijk, *Racism and the Press* (London: Routledge, 1991) at 152.
[8] Robert Hackett and Yuezhi Zhao, *Sustaining Democracy? Journalism and the Politics of Objectivity* (Toronto: Garamond Press, 1998) at 141.
[9] Marian Meyers, *News Coverage of Violence Against Women: Engendering Blame* (Thousand Oaks: Sage, 1997) at 19.

Table 6.1: Rape myths by national newspaper

	National Post	*Globe and Mail*	Total
Yes % within paper	147 59.5%	132 57.1%	279 58.4%
No % within paper	100 40.5%	99 42.9%	199 41.4%
Total **% within paper**	**247** **100%**	**231** **100%**	**478** **100%**

The majority of the stories in the local papers also contained rape myths. However, overall, the local newspapers ran fewer stories with a rape myth than the national newspapers. In total, 56.1% of the stories (591 stories) contained a rape myth in the local papers compared to 58.4% nationally (278 stories). Only one local newspaper had a higher percentage of rape myths in its stories than did the national newspapers -- the *Toronto Star* at 60.5% (178 stories). The newspaper with the lowest number of rape myths was the *Halifax Chronicle Herald* at 51.0% (157 stories). The *Free Press* ran 54.2% of its stories with a rape myth (110 stories) and the *Times Colonist* had 58.6% of it stories with a rape myth (146 stories).

Table 6.2: Rape myths by local newspaper

	Victoria T.C.	*Winnipeg F.P.*	*Toronto Star*	*Halifax C.H.*	Total
Yes % within paper	146 58.6%	110 54.2%	178 60.5%	157 51.0%	591 56.1%
No % within paper	103 41.4%	93 45.8%	116 39.5%	151 49.0%	463 43.9%
Total **% within paper**	**249** **100%**	**203** **100%**	**294** **100%**	**308** **100%**	**1054** **100%**

While some of Benedict's myths remain dominant with slight modifications, others did not appear to have much salience and were used in less than 10% of the stories with a rape myth. Overall, I determined that there were five dominant rape myths that were used in at least 10% of the stories in 2002. These rape myths are that: rape is sex; innocent men are being accused of sexual assault and its corollary that women lie about rape; the rapist is the "other;" the perpetrator is a good man and its corollary that his victim has a bad reputation; and finally the victim through her actions provoked the sexual assault.

Myth #1 – Rape Is About Sex Or Romance

The most frequently used myth in both the national and local stories was the myth that represented sexual assault as an inherently sexual act. This is not surprising given that Benedict calls this the "most powerful myth about rape" because it "ignores the fact that rape is a physical act."[10] Benedict suggests that the outcome of this myth is that the crime is not viewed seriously.[11] I conflated this myth with the second Benedict myth that the "assailant is motivated by lust"[12] because the lust mythology is, as Benedict explained, a natural extension of the assertion that rape as sex. Stories were coded as containing this rape myth if they described sexual assault as intercourse, partying, or diminished its violent aspects by calling it groping or luring.

Stories coded as including the myth that rape is sex included those that truncated the criminal code description of rape from sexual assault to sex assault. I argue that calling it a sex assault rather than a sexual assault ignores the fact that rape is a violent act. There are differing perspectives on the decision in the 1980 reforms that changed the criminal code distinctions from rape to varying degrees of sexual assault

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[10] Helen Benedict, *Virgin or Vamp: How the press covers sex crimes* (New York: Oxford University Press, 1992) at 14.
[11] Ibid.
[12] Ibid.

(see Chapter 2). Catherine MacKinnon suggests that it is difficult to tell the difference between rape and sex and that "by calling rape violence, we fail to mount a critique of heterosexuality."[13] As Carol Smart argues, "taking the sex out of rape has been seen as a way to improve the treatment of raped women by the criminal justice system. Yet such strategies are bound to fail as you cannot, by fiat take sex out of a sexual act, it will creep back in at every point."[14] But, as Smart points out, there is still a need to discuss the violent aspects of rape. At the same time, a conscious decision must be made to examine "male sexuality, and its prerogatives" which are "precisely what rape and the rape trial are about."[15]

The decision to use the word sex rather than the word sexual to modify assault is a deliberate act by the editors and reporters and it is a function of the lexical style of the newspaper. According to Teun van Dijk, the lexical style or "choice of words" is guided by the journalist in that the decision to refer to the rape as a sex assault or a sexual assault is "controlled by socially shared opinions, attitudes and ideologies."[16] I assert that the word sex, compared to the word sexual in this context, can be viewed as less formal, signalling a different attitude toward the crime itself. More importantly, I believe that the term sex assault rather than sexual assault does not denote the "colloquial" style of the "everyday informal conversation"[17] which suggests the shortening of the term is a deliberate act by the newspapers to set the crime apart. It is not just a sexual assault. It is a *sex* assault. The term sex assault uses two nouns that places primary focus on sex and shifts the emphasis away from the assault. It is a subtle change in the perception of the crime; however, I argue that it is important. It is worth noting that no other violent crime is shortened in this manner, again illustrating the differences inherent in reporting sexual assault crimes compared to other violent crimes. Murders or assaults are not shortened or made colloquial.

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[13] Catherine MacKinnon *Feminism Unmodified: Discourses on Life and Law* (London: Harvard University Press, 1987) at 88.
[14] Carol Smart *Feminism and the Power of Law* (London: Routledge, 1989) at 44.
[15] Ibid.
[16] Teun van Dijk *Racism and the Press* (London: Routledge, 1991) at 210.
[17] Ibid.

The myth that rape is sex showed up in 331 stories or 21.6% of the overall newspaper accounts in 2002. Nationally, it was seen in 17.8% of the stories printed in the *Post* and the *Globe* in 2002 (85 stories). The *Post* used it in 20.6% of its stories (51 stories) while the *Globe* used it less frequently – only 14.7% of the time (34 stories) In the *Post*, examples of stories that treated sexual assault as merely sex or lust included a story about a Calgary priest who was asked to resign his position because of his conviction for the sexual assault of a 16-year old boy. In this report, the sexual assault is referred to as "fooling around" and the priest is described as being "sexually attracted to teenage boys."[18] In a commentary by George Jonas about Gerald Regan's sexual assault investigations, the allegations against Regan are called "copping a feel" or "stealing a kiss."[19] In one particularly disturbing case, a Toronto man accused of sexually abusing a young boy was described as only engaging in "explicit sexual activity" with the child.[20] The examples in the *Globe* were arguably subtler. In one *Globe* story, the sexual assault of a 13-year old Winnipeg girl by a 22-year-old man was referred to merely as "sexual activity."[21] In another story, a man convicted of sexual assault was described as a "wealthy playboy" who would pick up 12-year old prostitutes for "partying."[22]

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[18] Robert Remington "Calgary parish split as pedophile priest revealed: Forgiveness advised" *National Post* (04 February 2002) A02.

[19] George Jonas "Regan a victim of matriarchal justice" *National Post* (18 February 2002) A16.

[20] Shannon Karl "Man accused in bizarre child sex abuse case ordered to U.S." *National Post* (02 May 2002) A15.

Like the national papers, the number one myth in the local papers is the myth that portrays sexual assault as sex or lust. This myth was used in almost one-quarter of the stories in the local papers (24.1% or 254 stories). It was used in 24.5% of the stories in the *Times Colonist* (61 stories), 24.1% of the stories in the *Free Press* (49 stories), 22.8% of the stories in the *Toronto Star* (67 stories) and in 25.0% of the stories in the *Chronicle Herald* (77 stories).

Other examples of this myth included the allegations of a sexual assault by a priest described as "sexual advances" and a spurned "romantic relationship."[23] A *Toronto Star* story covered a disciplinary hearing for a Toronto police officer accused of raping and choking a woman while both were on vacation in the Dominican Republic. The lawyer acting on behalf of the police officer claimed the woman was "smitten" with the officer and she had "enthusiastically participated in the sex."[24]

In a number of court stories in the *Winnipeg Free Press*, the conflation of sex with sexual assault was evidenced by the suggestion that rape can be halted if the perpetrators take medication to control their testosterone. In one story, the perpetrator, accused of "defiling" the body of a woman he killed, was said to be taking medication to "control his sexual urges."[25] In a separate incident, a series of articles following the trial of Jack Kakegamic in the *Free Press* detailed the attempts by a serial pedophile to avoid the designation as a dangerous offender by agreeing to "undergo a monthly injection to reduce testosterone."[26] A judge recommended that Kakegamic "voluntarily begin the procedure" that would "result in chemical castration."[27] This suggests that men who are incapable of controlling their testosterone are prone to rape. The violent behaviour of the sexual offender is reduced to mere chemistry -- control the chemistry and the urge to rape will disappear. This concept completely ignores the power dynamic that is inherent in sexual violence.

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[21] Krista Foss "Winnipeg man among first charged with Internet luring" *Globe and Mail* (14 September 02) A9.
[22] Robert Matas "'Kiddie stroll' popularity remains high, activist says" *Globe and Mail* (06 February 2002) A8.
[23] Associated Press "Milwaukee archbishop resigns: Weakland admits settling sex case, expected to apologize" *Halifax Chronicle Herald* (25 May 2002) D26.
[24] Peter Small, "Woman denies rape allegation is 'pack of lies' – Toronto police officer accused of 1998 assault." *Toronto Star* (31 July 2002) B04.

The coverage of a sexual assault trial in Victoria blurred the lines between sexual assault and sex. The *Times Colonist* covered the trial of a 39-year-old mother accused of sexually assaulting her two daughters. In the coverage of the trial, the woman is said to have "joined her husband in having sexual relations with her two adolescent daughters."[28] Calling the rapes sexual relations subverts the coercive and violent aspects of sexual assault. In another story about the trial, the Crown prosecutor said that "the mother was aware her husband was having sexual relations with the older daughter but didn't stop him 'because…(her husband) does love it.'"[29] The description of the sexual assault from the perspective of the male perpetrator rather than from the perspective of the female victim is an example of phallocentrism. It is the father's voice that is given credibility and credence while the victim's voice is silenced.

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[25] Mike McIntyre "Killer's family 'scared for him.' Public warning may make him a target, they fear" *Winnipeg Free Press* (22 February 2002) A13.
[26] Mike McIntyre "Sex offender volunteers for 'castration' injection to reduce testosterone would help control deviant urges" *Winnipeg Free Press* (08 November 2002) A3.
[27] Paul McKie "Sex offender agrees to chemical castration. Jailed 8 years for raping boy, 9" *Winnipeg Free Press* (29 November 2002) A3.
[28] Sandra McCulloch "Mom gets 3 ½ years for sex offences: Charges added for breaching bail by contacting daughters" *Victoria Times Colonist* (17 July 2002) D1.

This trivializes sexual assault and confirms the results of studies conducted outside of Canada: that most often, the news media report rape as if it is a minor crime. For instance, Jean Ward chronicles that when a Columbia University student was raped, a prestigious daily newspaper reported the student had been cut but was not otherwise seriously injured. The report prompted an acting New York State Supreme Court justice to write to the paper saying "the suggestion that the rape itself is not a 'serious injury' is beyond comprehension. The physical violence inherent in a rape is generally no longer belittled, but the attitude that is expressed in your articles is a reflection of an unfortunate view of community attitudes lurking below the surface."[30] It also suggests that women's rape is somehow insignificant and unimportant.

Myth #2 – Innocent Men Are Being Accused Of Rape

The myth that innocent men are being accused of rape plays on the fear that men will be unfairly accused of sexual assault. According to Alan Young, in 1994 the unfounded rate for sexual assault crimes ranged from 9 to 14% depending on the level of sexual assault.[31] This means that after the complaint was filed with police, they "concluded that no violation of the law took place nor was attempted."[32] In 2002, the unfounded rate for sexual assault was 16%. The unfounded rate for other types of violent crime was 7% between 1991 and 2002.[33]

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[29] Ibid.

[30] Jean Ward, "Talking (Fairly) – About the World: A reprise on journalistic language." (Winter Spring 1993) 17:2 Media Studies Journal. 183 at 188.

It is important to point out that it is the police who determine if a rape complaint is unfounded or not. Feminists have argued that this use of discretion is "based on traditional attitudes, which define as rape only those events that fit the (male) police officer's perception of a rape case."[34] Gunn and Minch argue that in some cases, police "simply do not believe that a rape or attempted rape has occurred."[35] In 2001, there were 11,564 sexual assaults reported to police. Of those, 38.1% resulted in charges of some type being laid. In 8% of the cases, the victim decided not to lay charges. In 5.7%, the police department used its discretion to not lay charges. In total, 43.0% of the sexual assaults reported to police did not result in charges being laid. Compare this to other assaults. In 2001, there were 120,374 non-sexual assaults and of those only 20.4% were not cleared by charges.[36] Alan Young points out, "we do not see a mad rush to impeach the credibility of Crown witnesses" in other cases of unfounded reports,[37] but that is not the case in sexual assault crimes. Indeed, as part of the normal courtroom routine, women themselves are put on trial when they accuse men of rape. This is then replicated in news coverage of sexual assault as the myth that women lie about their sexual violence.

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[31] Alan N. Young, "When Titans Clash: the Limits of Constitutional Adjudication" 44 C.R. (4th) 152 at 11.

[32] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, No. 6) at 9.

[33] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, No. 6) at 9.

[34] Carol Bohmer "Rape and the Law" in *Confronting Rape and Sexual assault* Mary E. Odem and Jody Clay-Warner Eds. (Wilmington: Scholarly Resource Books, 1998) 247 at 258.

[35] Rita Gunn and Candice Minch *Sexual assault: the Dilemma of Disclosure, the Question of Conviction* (Winnipeg: University of Manitoba Press, 1988) at 56.

[36] Statistics Canada, *Canadian Crime Statistics, 2001* (Juristat) (Ottawa: Catalogue no. 85-205-XIE) at 66.

Sexual assault charges can be filtered out in other ways. At the Crown prosecutor's level, charges may be withdrawn or altered.[38] Plea bargains may be used as a way of disposing of cases. The Crown can alleviate the expense of pushing through with a trial by dismissing major or more serious charges in exchange for a guilty plea at a lesser level.[39] In the survey Gunn and Minch conducted in Winnipeg in 1988, the filtering out of rape cases at the Crown level resulted in "10% of the charges being terminated or disposed of in the criminal justice system."[40] The filtering continues at the court level and according to Gunn and Minch, in nearly 8% of the cases the accused had "their charges terminated either by dismissal (4 percent) or by acquittal (4 percent)."[41] The fact that sexual assault charges do not result in a conviction reinforces

> the historic masculine fear of false accusation, a fear that has found expression in male folklore since the Biblical days of Joseph the Israelite and Potiphar's wife, that was given new life and meaning in the psychoanalytic doctrines of Sigmund Freud and his followers, and that has formed the crux of the legal defense against a rape charge, aided and abetted by that special set of evidentiary standards (consent, resistance, chastity and corroboration) designed

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[37] Alan N. Young, "When Titans Clash: the Limits of Constitutional Adjudication" 44 C.R. (4th) 152 at 2 – 3.

[38] Rita Gunn and Candice Minch, *Sexual assault: the Dilemma of Disclosure, the Question of Conviction* (Winnipeg: University of Manitoba Press, 1988) at 62.

[39] Ibid at 67.

[40] Ibid at 69.

[41] Ibid at 79.

> with one collective purpose in mind: to protect the male against a scheming, lying, vindictive woman.[42]

While legislation has been implemented to work against this myth, my findings clearly show that it remains firmly entrenched.

The rape myth that innocent men are being accused of rape was surprisingly prominent in both the national and local papers under study. Overall, it was used in 12.1% of the coverage. The myth was contained in 10.7% of the stories in the national papers (51 stories) and in 12.8% of the local stories (135 stories). The *Post* featured it in 10.5% of its stories (26 stories) and the *Globe* had it in 10.8% of its stories (25 stories). Stories that were coded as containing this myth included coverage of not guilty findings and DNA exoneration of those prosecuted for sexual assault but these stories did not make up the bulk of the stories that contained this myth. It is important to note that conviction rates have risen for all types of sexual offences, but have remained steady for other violent offences since 1995/96"[43] and thus, it is not surprising that there are trials in which a verdict of not guilty was returned. Additionally, the newspapers covered substantively more guilty verdicts in their coverage of sexual assault trials than they did not guilty or cases when the charges were stayed or dropped. However, the myth remained fairly embedded in the coverage in all the newspapers.

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[42] Susan Brownmiller, *Against Our Will: Men, Women and Rape* (New York: Fawcett Columbine, 1975) at 386-387.

[43] Statistics Canada, *Sexual Offences in Canada* (Juristat) Rebecca Kong, Holly Johnson, Sara Beattie, and Andrea Cardillo (Ottawa: Catalogue no. 85-002-XIE, Vol. 23, No. 6) at 9.

Perhaps the best example of the innocent man myth comes from the coverage in the national newspapers of the Gerald Regan case. Regan is the former Nova Scotia Premier who had been accused of a number of sexual assaults. The Supreme Court of Canada overturned a lower court decision to stay nine charges based on improprieties that "violated Mr. Regan's right to a fair trial."[44] Regan had earlier been acquitted on eight counts of rape, attempted rape, indecent assault and unlawful confinement involving incidents that dated back to the 1950s.[45] In the *Post*, the Supreme Court was described as being "deeply divided" over the decision, with dissenters "portraying Mr. Regan as the victim of a witch hunt."[46] In a comment headlined "Regan a victim of matriarchal justice," George Jonas denounced the majority decision:

> Between the lines of the majority's reasons was the unmistakable message that the matriarchy means business; that a feminist justice system cares mainly about empowering women, and that in Canada's sex wars an allegation of a sexual nature by any woman, no matter how minor, unsupported, or distant in time, reduces any man to a terrorist suspect, an unlawful combatant, to whom the Geneva conventions no longer apply.[47]

In April 2002, the Nova Scotia Crown Prosecutor made the decision to stop the prosecution in the Regan case. This time, it was Regan's lawyer who suggested the Regan had been the "subject of a witch hunt."[48] Regan was quoted as saying, "I'm not guilty of these charges and never was."[49]

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[44] Luiza Chwialkowska "Supreme Court of Canada: Former premier may be tried on 9 sex charges, court rules: Prosecutorial impropriety not serious enough to stay charges" *National Post* (15 February 2002) A06.

Ibid.

[46] Ibid..

[47] George Jonas "Regan a victim of matriarchal justice" *National Post* (18 February 2002) A16.

[48] Richard Foot "Crown drops case against Gerald Regan: Indecent assault charges: Reluctant witness prompt prosecutors t end pursuit of former N.S. premier" *National Post* (18 April 2002) A03.

[49] Ibid.

The *Globe* also relied on the innocent man myth in its coverage of Regan. In its coverage of the Supreme Court decision, the *Globe* wrote that one of the dissenters, Supreme Court of Canada Justice Ian Binnie, suggested "any well-informed person would conclude that Mr. Regan was pursued 'not so much for what he has done, as for who he is'."[50] In a pointed comment by Ian Hunter published on February 27, 2002, "feminist orthodoxy" is blamed for Regan's prosecution. Hunter suggests: "Mr. Regan was from a different era, when unwarranted indiscretions led to a slap on the face, not to relentless state prosecution. Is it fair to apply, retroactively, the standards of this era to the conduct of a previous one?"[51] In the coverage in the *Post* and the *Globe*, it becomes clear that Regan is portrayed as a man who was being prosecuted because of his political past, not for any wrongdoing on his part.

Halifax also gave significant coverage to the Regan case, but the majority of those stories did not play into the innocent man myth. Other stories did however. For example, two Shelburne teachers were charged with sexually assaulting seven girls between 1998 and 2001. When the teachers were arraigned, their lawyer stated the "the charges are groundless" and that the teachers were looking forward to going to court to prove that "these allegations are without foundation."[52] In July, the *Chronicle Herald* ran another story following the preliminary inquiry of one of the teachers. In that story, it was revealed that charges against the second teacher had been dismissed. Again, the defence attorney suggested that an innocent man has been accused of sexual assault because "none of these things happened in some dark recesses of a corner but in a classroom full of students."[53] On October 9, 2002, the *Chronicle Herald* covered the fact that charges against the second teacher had also been withdrawn. One of the teachers talked about the "11 months of hell" he had just gone through. The Crown prosecutor said that "we looked at all the evidence…and made a determination based upon that evidence that there was no realistic prospect of conviction." The defence lawyer then said "'there were almost a knee-jerk reaction' about the way the investigation was handled. "Someone says something happened to me and it's taken simply at face value without really examining it at depth."[54]

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[50] Kirk Makin "Top court revives charges against Regan Ruling exposes sharp division among justices as majority decides ex-premier should face sexual-assault allegations" *Globe and Mail* (15 February 2002) A3.

[51] Ian Hunter "Even nasty men deserve a fair trial" *Globe and Mail* (27 February 2002) A17.

[52] Brian Medel "Shelburne teachers in court on sex charges" *Halifax Chronicle Herald* (18 April 2002) A3.

The *Toronto Star* wrote in detail about the attempts by Ken Charron to get his 1986 conviction of the rape and robbery of a deaf woman in St. Louis overturned. Charron, a Canadian, wanted a DNA test to prove that he was not responsible for the woman's rape. His cause was being taken up by the Innocence Project – an advocacy group that works on exonerating individuals wrongfully convicted of crimes. Charron was "convicted in part on the basis of eyewitness identifications by the victim and her mother, who picked Charron out of photo and police line-ups. But this type of evidence is notoriously unreliable and the leading cause of wrongful convictions."[55] Eventually, St. Louis officials agreed to conduct DNA tests on key trial exhibits which included "a piece of clothing worn by the victim, a vaginal swab taken from the woman and a green curtain valance bearing at least five semen stains."[56] The testing was expected to be complete by 2003. The *Toronto Star* gave this case some attention. Four stories followed Charron's requests to the St. Louis prosecutor's office, a significant amount compared to its coverage of other stories.

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[53] Ibid.
[54] Brian Medel "Sex charges dropped against teacher: Crown withdraws 11 counts against Shelburn man" *Halifax Chronicle Herald* (09 October 2002) A1.
[55] Tracey Tyler "Ottawa aids inmate – jailed Hamilton man wants DNA test in rape case" *Toronto Star* (24 August 2004) A06.

The coverage of the Rocancourt extradition in the *Victoria Times Colonist* reinforced the myth of the innocent man being falsely accused. Christopher Rocancourt was found not guilty of sexual assaulting a woman and as a result he asked that she be charged with perjury and obstruction of justice. Rocancourt had said that the woman who accused him should have to pay the consequences: "She didn't care what her lies would do. Someone can just say something and that's it....She could do it to someone else who many not have the money to fight it. The poor guy will go through the same thing as me."[57] Rocancourt, considered to be a well-known con man, was being extradited to the United States on various charges.[58]

These assertions made by defence lawyers and perpetrators ignore the reality of investigations in sexual assault cases and the many different hurdles victims must jump in order for a sexual assault allegation to make it through to a trial. It makes it sound like women and children can make false accusations that are immediately and fully investigated and thus all men should live in fear that they will be wrongfully accused. In fact, the opposite is true. As previously indicated, the number of sexual assault crimes adjudicated by police to be unfounded is higher than other assaults and it would appear that getting police to proceed with the charges is inherently difficult.

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[56] Luma Muhtadie "Inmate wins DNA testing in rape case – Hamilton man in Missouri prison Served 17 years of two life terms" *Toronto Star* (15 November 2002) A18.

[57] Kim Westad "Con man could return to Canada" *Victoria Times Colonist* (15 June 2002) A2.

[58] Ibid.

Myth #3 – The Victim Is Lying

A corollary of the innocent man myth is the myth that women lie about sexual assault. It is heartening that this myth was not used as frequently as the innocent man myth and overall, it was seen in only 7.7% of the stories in 2002 (118 stories). Nationally, the number of times this myth appeared in either the *Globe* or the *Post* was quite low – only 6.1% of the national stories held this myth (29 stories). That number climbed in the local papers to 8.4% (89 stories). Nationally, the *Post* had more stories than the *Globe* with this myth (6.9% of its coverage or 17 stories compared to the *Globe* with only 5.2% of its coverage or 12 stories). Locally, the *Halifax Chronicle Herald* had the highest percentage of this myth at 9.1% (28 stories). The *Victoria Times Colonist* used this myth the least at 7.2% of the stories (18 stories). It appeared in 8.9% of the *Winnipeg Free Press* reports (18 stories) and in 8.5% of the *Toronto Star's* coverage (25 stories).

One example of this was a *Toronto Star* story about a gang rape in Pakistan of an 18-year old girl by four men. The men were acting on orders from a tribal council. The police chief in the town suggested that in the aftermath of the publicity that at least "one woman a day had filed a complaint of rape. Normally there are four to five reports a month."[59] The police chief claims that women are making the complaints because they "want the attention and money" that have been given to the gang-rape victim. He added that the rape complaints "are fabricated."[60] What is important to note about this story is that there was no alternative frame given to this perspective. Women's organizations or humanitarian groups were not quoted suggesting that this analysis is sexist or based on stereotypes about rape. The information is supplied without refutation.

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[59] Ian Fisher "Woman commits suicide after rape in Pakistan – Sexual assault widespread in remote regions of the country" *Toronto Star* (10 August 2002) K04.

Myth #4 – The Perpetrator Is The "Other"

Benedict's analysis of rape myths used in the press reflected an American perspective. One of the myths that she determined to be prevalent was the myth that black men rape white women. Brownmiller argues that this myth is a remnant of America's racist history:

> No single event ticks off America's political schizophrenia with greater certainty than the case of a black man accused of raping a white woman .... Racism and sexism and the fight against both converge at the point of interracial rape, the baffling crossroads of an authentic, peculiarly American dilemma.[61]

Brownmiller suggests that the Ku Klux Klan used the alleged rapes of a white women by a black men as an excuse to lynch black men and protect "Southern womanhood from the black menace."[62] In Canada, it is not necessarily a black man who is seen as the perpetrator. He may be black, or he may be Aboriginal, an immigrant, a visible minority or a religious minority. Stories were coded under this category if the assailant was viewed as being the "other" – in other words if s/he was either a visible or religious minority, an immigrant or someone who lives outside of Canada. This myth instils the sense that "normal" white men do not rape women. Instead, the rapist is easily identifiable as being different from "us."

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[60] Ian Fisher "Woman commits suicide after rape in Pakistan – Sexual assault widespread in remote regions of the country" *Toronto Star* (10 August 2002) K04.

[61] Susan Brownmiller, "*Against Our Will: Men, women and Rape* (New York: Fawcett Ballantine, 1975) at 210.

[62] Ibid at 128.

As I indicated in Chapter 4, the description of a perpetrator's race was not used often in newspaper reports about sexual assault. However, the myth that the perpetrator's identity was other than a white male was used, more frequently in the national newspapers and less so in the local ones. Nationally, it appeared in 18.2% of the stories (87 stories) and only half that amount (9.0% or 95 stories) in the local papers. The *Globe and Mail* invoked this myth in 18.6% of its stories (43 stories), while the *Post* used it 17.8% of its stories (44 stories). By contrast, the *Toronto Star* ran stories with the myth of the perpetrator as "other" in 11.9% if its stories (35 stories). The *Times Colonist* relied on this myth in 14.1% of its stories (35 stories) while the *Free Press* and the *Chronicle Herald* much less frequently – at 5.4% in the *Free Press* (11 stories) and at 4.5% in the *Chronicle Herald* (14 stories). The fact that the national papers' focus is on stories that appeal to a wider audience is perhaps one reason for the difference in the numbers. Secondly, as indicated in previous chapters, cutbacks in the newsrooms have meant an increased reliance on wire stories to fill the newspaper pages and, as demonstrated, this has resulted in both the national and local newspapers using international news stories from wire services.

An unintended consequence of the increased reliance on the international story is that it creates the myth that the rapist is a foreigner. The sexual assault occurs somewhere else, not in our neighbourhoods. Moreover, the sexual assault is perpetuated by the "other" -- a man who is not one of us and is thus easily identifiable. Overall, 13% of the stories utilizing the rapist as the "other" myth were stories where the rape took place outside Canada or the United States (199 stories). While the majority of these stories occurred in Canada or the United States, in the stories it is made clear that the perpetrator was not white. These included the coverage of a Chinese herbalist in Nanaimo charged with touching female patients or a Muslim teacher at a private school charged with sexually assaulting his male students.

The best example of the use of this myth that the perpetrator is the "other" can be found in the two columns written by Mark Steyn in the *National Post* that I discussed in detail in Chapter 5. In these columns, Steyn suggests that Muslim men were raping white women as a way of asserting their cultural identity.[63] The Muslim man becomes an easily identifiable target for women's fear and in light of the September 11th, 2001, terrorist attacks in the United States, this is an easily assimilated myth. Another case given a great deal of attention in both the national and the local papers that reinforced the myth that the rapist is the "other" is the case of the 18-year old Pakistani girl who was gang raped as a punishment ordered by her tribal council. This story was one of the few about sexual assault that made it to the front page in the

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[63] Mark Steyn "Multicularalists are the real racists" *The National Post* (19 August 2002) A14.

Post which ran it on the front page on July 4, 2004.[64] The punishment was ordered because the girl's younger brother was seen walking with a girl from a higher-status tribe[65] and Inherent in the coverage of the story was a discussion about the status of women in this largely Muslim country. In one story in the *Globe,* human rights activists expressed concern about the use of tribal councils for the adjudication of justice[66] as well as the treatment of women in Pakistani society.[67] This focus in the media on the rape of women by Muslim men suggests an area for further study that falls outside of the purview of this thesis – namely, is the Muslim man replacing the black man as the target for fear of sexual aggression? Again, in light of the September 11, 2001 attacks in the United States, this would be an easy myth to assimilate.

As I indicated, the *Toronto Star* had a higher proportion of stories using the rape myth of the rapist as the "other" than any of the local newspapers under study and while the majority of these stories came again from coverage of sexual assault cases outside of Canada, some of it can also be explained by the ethnic diversity of Toronto. For example, as I briefly touched on earlier in this chapter, the *Star* spent a great deal of time covering the police disciplinary hearing of Juan Blowes-Aybar, who was charged with sexually assaulting a woman while vacationing in the Dominican

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[64] Stewart Bell "Boy's walk with upper caste girl led to trial and punishment" *The National Post* (04 July 2002), A01.

[65] "Pakistan gives funds to gang-rape victim" *Globe and Mail* (05 July 2002) A10.

[66] "Second suspect arrested in village gang-rape case" *Victoria Times Colonist* (07 July 2002) A4.

[67] Rana Jawad "Six Pakistani man sentenced to hang for gang rape" *Globe and Mail* (02 September 2002) A10.

Republic. Blowes-Aybar was "originally from the Caribbean nation."[68] The *Star* also covered the sexual assault trial and conviction of a man who was "a native of the Bahamas, but is now a Canadian citizen."[69] Remarkably at one point, the court was considering allowing the man to spend time "under his mother's supervision on the vacation island, provided Canadian immigration and Bahamian officials were informed."[70]

The *Victoria Times Colonist* also used the myth of the rapist as the "other." The paper covered the court proceedings against Ming Chen, a practitioner of traditional Chinese medicine. Chen was charged with nine counts of sexual assault involving his patients.[71] As I stated earlier the *Halifax Chronicle Herald* and the *Winnipeg Free Press* did not depict the rapist as the "other" in many of its stories as that myth made up less than six percent of the overall coverage in both papers. An example in the *Chronicle Herald*, was a story about a Chinese student found guilty of sexually assaulting a fellow student.[72] In the *Winnipeg Free Press*, it was a report on the allegations that UN staff "sexually abused children in refugee camps in West Africa."[73]

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[68] Peter Small "Sexual assault alleged against police officer – Incident occurred during Caribbean vacation" *Toronto Star* (30 July 2002) B07.
[69] Nick Pron "Student's fondler released" *Toronto Star* (08 October 2002) B05.
[70] "Prowler awaits sentence" *Toronto Star* (08 August 2002) D05.
[71] "Nanaimo medical practitioner charged in sexual assaults" *Victoria Times Colonist* (20 April 2002) B3.
[72] Sherri Borden "SMU student gets suspended sentence for sex assault" *Halifax Chronicle Herald* (08 January 2002) A5.
[73] "Relief agency workers accused of violating kids UN probes alleged sex abuse of refugees" *Winnipeg Free Press* (28 February 2002) B6.

Myth #5 – The Perpetrator Has A Good Reputation

The perpetrator's marital status or solid reputation was also part of the mythology of sexual assault crimes. Discussing the perpetrator's marital status or solid community reputation potentially casts doubts on the victim's insistence that an assault occurred. First, discussing the perpetrator's marital status works in conjunction with the previously held belief that rape is all about sex. This suggests that if the perpetrator has a sexual outlet, he has no need to rape.[74] Second, discussing the assailant's solid reputation suggests that as a good citizen, he would never rape. This of course belies the fact that so-called good citizens and married citizens have been found guilty of sexual assault.[75] Overall, the perpetrator's marital status or solid reputation was part of the news story in 11.9% of the stories (182 stories). It appeared in the *Post* 13.4% of the time (33 stories) and in the *Globe* 10.4% of the time (24 stories). In the majority of these cases, the myth was invoked when describing a perpetrator who was in a position of authority over his victim. For instance, a teacher at the Islamic Teaching Institute charged with eight counts of sexual assault is described as "hero in the Muslim community" in one *Post* article.[76] Another *Post* story talks about a merit increase given to a Laurentian University economics professor, despite the fact that he was charged with sexually assaulting a student. The increase was based on his "exceptional research in the field of economics."[77] In an in-depth article regarding sexual abuse allegations at the Upper Canada College, the *Post* describes a teacher charged with 19 counts of sexual assault as “charismatic,” “a good teacher and good company,” “warm, witty and funny.”[78] Also in the *Post*, a convicted pedophile hired by a Calgary parish was called a “superb priest.”[79]

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[74] Helen Benedict, *Virgin or Vamp: How the press covers sex crimes* (New York: Oxford University Press, 1992) at 14.
[75] Ibid.
[76] Marina Jimenez "A Tale of Two Schools: In Ajax, Ont. Islamic Institute plays down sexual assault charges: Principal accused of crimes against four students" *National Post* (05 January 2002) B01.
[77] Dan Osvey "Professor gets merit pay despite sex charges: Laurentian waiting to see outcome of May 13 trial" *National Post* (19 January 2002) A09.

Like the *Post*, the majority of the *Globe* news stories that described the reputation of the perpetrator dealt with a sexual assault by a person in a position of power. For instance a priest found guilty of sexually assaulting three women was described as “charismatic” and “personable.”[80] A Nova Scotia doctor who was found guilty of indecently assaulting three teenage boys was called “popular” and “respected.”[81] The myth of the “good man” accused of sexual assault works alongside the myth that men are being falsely accused of rape. It also works in conjunction with the myth that only crazy men rape, when statistics suggest that is not the case.

Locally, the use of this myth ranged from 8.4% in the *Winnipeg Free Press* (17 stories) to 14.0% in the *Halifax Chronicle Herald* (43 stories). It was found in 13.6% of the stories in the *Toronto Star* (40 stories) and in 13.7% of the stories (25 stories) in the *Victoria Times Colonist*. Examples of the use of this myth in the *Free Press* include a story about a man convicted of sexually assaulting a woman in Steinbach. The perpetrator was described as a “devout Mennonite.”[82] By contrast, the victim was described as “depressed” and “suffering from anxiety attacks and battling constant anger, sadness and depression."[83] Another *Free Press* story talks about the outrage of the parish of Our Lady of Mount Carmel Catholic Church after their priest was asked to step down. The priest had been convicted of sexual assault in 1962 for his role in the abuse that occurred at a residential school in Inuvik. He then joined the priesthood following his 10-year sentence. Parishioners were quoted, saying that Martin Houston had done "a good job for his parish" and that he "was a nice guy."[84] It was only later in the story that his victims were interviewed to say that Martin's actions caused people to suffer and that "a lot of people have died with that suffering."[85]

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[78] Craig Offman “Who is telling the truth?: Upper Canada College: A former student investigates allegations of sexual assault” *National Post* (02 March 2002) B01.

[79] Robert Remington “Calgary parish split as pedophile priest revealed: Forgiveness advised” *National Post* (04 February 2002) A02.

[80] Keith Lacey “Ontario priest guilty of assaulting girls” *Globe and Mail* (23 May 2002) A5.

[81] Kevin Cox “Former N.S. doctor guilty of assaults, court rules” *Globe and Mail* (01 June 2002) A2.

[82] Mike McIntyre “Man gets 2 years for sexual assault; Victim now suffering anxiety and sadness’ *Winnipeg Free Press* (25 April 2002) A16.

In the Halifax newspaper, examples of this myth were found in much of the coverage of the Gerald Regan story. Regan came under investigation for sexual assault in 1994 following allegations from eight women and dating back almost a quarter of a century. In the *Chronicle Herald* coverage, Regan's position as Nova Scotia's Premier in the 1970s and his volunteer efforts were described in a front page article written the day the Crown announced it was dropping all his charges.[86] In another story that also ran on the front page that same day, his lawyer Edward Greenspan described the strength Regan derived "from his wide net of friends and admirers and his close, wonderful family."[87] Other examples of this myth in the *Chronicle Herald* include a story about a 30-year old man charged with child pornography. The

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[83] Mike McIntyre "Man gets 2 years for sexual assault: Victim now suffering anxiety and sadness' *Winnipeg Free Press* (25 April 2002) A16.

[84] Leah Janzen "Priest resigns at archbishop's urging: 1962 conviction for sex assault returns to haunt Carman cleric" *Winnipeg Free Press* (05 June 2002) A1.

[85] Ibid

[86] Susan Bradley "Sorry there were no convictions – accuser" *Halifax Chronicle Herald* (18 April 2002) A1.

[87] Sherri Borden "Regan case dropped by Crown" *Halifax Chronicle Herald* (18 April 2002) A1.

Chronicle Herald interviewed the man's employer who described him as "just a normal guy" who "worked hard but didn't socialize much with his co-workers."[88]

The *Toronto Star* described a man who viciously murdered a young woman, attacked her sister and sexually assaulted a third woman as a "father of three" who had "no prior record." The news story said that there was "no explanation given" for why Stuart Cameron "committed the heinous acts."[89] In a subsequent story, Cameron is described as an "enigma" and his wife is quoted as saying that she would continue "to be there to support Cameron."[90]

Another *Star* story documented the outcome of the trial of a man charged with sexually assaulting two boys. An Ontario court granted a stay in the proceedings because the accused, Richard Gallagher, was dying and it was determined that he likely would not live through the trial. The article interviewed supporters of Gallagher who was "heavily defended by friends and colleagues."[91] The retired teacher and principal was described as making "friends easily" and being "respected and trusted by parents. He was a teacher, a regular at church, a sophisticated world traveler and a caring man who was ready to lend a supportive hand."[92] Gallagher was being investigated for incidents that occurred over a 22-year period when 12 boys from nine families accused Gallagher of sexually assaulting them. In this story, his victims were not described at all, even though their court testimony was quoted. No one was quoted supporting. No one was allowed the opportunity to detail their potentially positive roles in the community.

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[88] Randy Jones and Brian Hayes "Man faces 'sickening' child-abuse charges" *Halifax Chronicle Herald* 06 February 2002) A1.

[89] Donovan Vincent "Used tissue leads to man's arrest" *Toronto Star* (15 January 2002) B01.

[90] Donovan Vincent "Murderer gets 20-year minimum sentence – Father of three attached sisters in home invasion" *Toronto Star* (15 February 2002) B03.

[91] Kerry Gillespie "Family bereft as abuse charges die – Charges against dying man in pedophilia case" *Toronto Star* (24 February 2002) A06.

[92] Ibid.

In the Victoria newspaper, some of the stories documenting the sexual abuse conviction of boys by a local priest were examples of the myth that suggested good men do not rape. One story begins by describing the work of a priest accused of sexually assaulting young boys from his parish as riveting and passionate. A woman said after hearing Father Phil Jacobs speak in a sermon the Sunday after September 11th, 2002, that she "couldn't stop talking afterward about how lucky her daughter was to have stumbled upon such a fabulous priest."[93] An editorial following up on the story said that Jacobs served the Saanich Church with "skill and dedication"[94] Again, the victims were not given the same attention or description.

Myth #6 – The Victim Has A Bad Reputation

Benedict's book *Virgin or Vamp* identifies a dominant rape myth that the victim was loose or that "only overtly sluttish women are raped."[95] Because the changes to the sexual assault legislation mean that a woman's sexual history could no longer be considered during a sexual assault trial, the discussion of a woman's chasteness is not likely to appear in newspaper accounts. However, a new myth seems to have taken its place and that is the myth that the victim has a poor reputation – either a previous criminal conviction, a drug habit or an alcohol problem. If a woman who is raped is a prostitute, then her profession may also be mentioned. The woman's role as a "deviant and deserving of condemnation" is underscored in this myth.[96] It was this type of discourse I searched for when coding for this myth. Moreover, according to Benedict, a woman's morality will be reinforced by the media's description of her marital status. A young unmarried woman who has been sexually assaulted is less likely to be painted sympathetically by the press than is an older married woman.[97]

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[93] Jody Paterson "The two faces of Father Jacobs: How a dirty little secret caught up with the 'perfect' priest" *Victoria Times Colonist* (05 May 2002) D01.

[94] "Once abuse became public, priest had to resign" *Victoria Times Colonist* (02 May 2002) A10.

[95] Helen Benedict, *Virgin or Vamp: How the press covers sex crimes* (New York: Oxford University Press, 1992) at 16.

In 2002, the victim's *overall* reputation was still discussed although not in as many stories as the previous myth about the perpetrator's good reputation. In total, 4.5% of the stories (75 stories) that ran in 2002 discussed the victim's poor reputation. In only 2.8% of the *Post* stories (7 stories) and 3.9% of the *Globe* stories (9 stories) did the reporter document the victim's poor reputation. At the local level however, those percentages rise considerably, particularly in the *Winnipeg Free Press* which was more likely than any of the other local newspapers to utilize this myth.[98] The *Free Press* ran this myth in 10.8% of its stories (22 stories), while the *Toronto Star* used it in only 3.7% of its stories (11 stories). It was featured in 5.2% of the *Times Colonist* reports (13 stories).

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[96] Marian Meyers, *News Coverage of Violence Against Women: Engendering Blame* (Thousand Oaks: Sage, 1997) at 19.
[97] Helen Benedict, *Virgin or Vamp: How the press covers sex crimes* (New York: Oxford University Press, 1992) at 19.
[98] In the *Free Press*, it was used 37.3% compared to 22.0% in the *Times* Colonist, 18.6% in the *Star*, and 22.0% in the *Chronicle Herald*; significant at p<.01).

Many of the stories in the *Free Press* that mentioned the victim's poor reputation came about as a result of coverage of sexual assault trials. For example, a 42-year old taxi cab driver was accused of sexually assaulting a 19-year old woman in Winnipeg. In two of stories that reported on the court proceedings, the victim was identified as a prostitute. In another two stories, the reporter disclosed that she was being treated for "depression."[99] Another court story involved a 33-year old man who the Crown was attempting to have designated a dangerous offender. In this story, the perpetrator suggested that his 16-year old victim "looked like a prostitute."[100] Still another story about the dangerous offender designation of an individual being released into the care of his family in Winnipeg described the 17-year old victim as a "mother of a two-month-old baby" who "had been bar-hopping with friends."[101]

The coverage of the sexual assault allegations against Canadian singer Celine Dion's husband, Rene Angelil, also discussed the reputation of the victim. All the newspapers covered this story in some detail. In the coverage, Dion is supportive of Angelil despite the allegations and Angelil's marriage to Dion, their baby and his battle with throat cancer were all highlighted in these stories. Overall, he was treated as a sympathetic figure serving as an example of the previous myth that good men do not rape women. His accuser Yun Kyeong Song Kwon[102] did not fair as well. In the

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[99] "Rape charge stayed" *Winnipeg Free Press* (28 May 2002) A8.

[100] Mike McIntyre "Dangerous-offender status urged by Crown" *Winnipeg Free Press* (22 May 2002) A5.

[101] Mike McIntyre "Killer's family 'scared for him'. Public warning may make him a target they fear" *Winnipeg Free Press* 22 February 2002) A13.

[102] Some of the newspapers called her Yun Kyeong Sung while other stories identified her as Yun Kyenong Song Kwon.

Post, she is described as "a gambler who has racked up huge debts"[103] and "a fugitive from justice"[104] charged "with writing bad cheques to local casinos."[105] In a similar vein, a May 4, 2002 story in the *Globe* reported that Song Kwon had "been thrown into a cell in Los Angeles County Jail after being accused of writing nine bad cheques totalling $500,000 (US) to two Vegas casinos. She's still in jail, having been unable to raise bail, which was set at $500,000."[106] The *Globe* story continued: "It seems all this is not Kwon's first brush with the wrong end of the law; in 1995 and again in 1997 she was convicted of shoplifting from department stores and, in each instance, was sentenced to two years probation and fined."[107]

In the *Times Colonist,* Song Kwon's legal troubles were brought to light in a May 30, 2002 story with the coverage of her release from jail after accepting a deal to repay a casino over $550-thousand or face fraud charges.[108] The *Chronicle Herald* also talked about Song Kwon's legal woes in a July 26, 2002 story that detailed her plea of not guilty to charges of theft.[109] In a *Star* story, Song Kwon was called a "habitual gambler" with a "poor credit record," a "history of shoplifting" and a "stormy relationship with her husband."[110] Obviously, the theft or fraud charges against a woman in the United States would be of little interest for this type of coverage normally in any of the local papers under study were it not for her allegations against Angelil. The fact that they were discussed in this context, particularly in contrast to Angelil who is portrayed as a good husband and father, also reinforces the myth that innocent (and good men) are being accused of rape by less than innocent or (bad) women.

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[103] "West to East: Ontario: Woman suing Dion's husband has troubled past: report" *National Post* (11 April 2002) A06.

[104] William Marsden "Angelil's rape accuser arrested: Woman charged with being a fugitive from justice" *National Post* (20 April 2002) A05.

[105] "West to East: Quebec: Rene Angelil's accuser to answer fraud charges in court" *National Post* (21 May 2002) A09.

[106] James Adams "Nevada Judge to hear Angelil case" *Globe and Mail* (04 May 2002) R3.

[107] Ibid.

[108] "Angelil's accuser cuts deal on fraud charges" *Victoria Times Colonist* (30 May 2002) D3.

[109] "Accuser of Dion's husband pleads not guilty to theft" *Halifax Chronicle Herald* (26 July 2002) B6.

[110] Sean Daly "Angelil's accuser under fire – Woman suing Dion's husband target of charges" *Toronto Star* (10 April 2002) A22).

Myth #7 – The Victim Provoked The Rape

That the victim provoked the rape was another dominant myth in 2002 and it included newspaper accounts warning women about rapists operating in their neighbourhoods. The practise of warning women has met with considerable criticism by feminists and victims. As Jane Doe writes, the warnings "we are accustomed to hearing are both stupid and outrageous and call on a large group of people to censor their lives."[111] The news reports informed by the police warnings make it clear to women "what actions and locations are unsafe, influencing decisions about where to go, what to wear, how to act, how late to stay out. It tells all of us how society views male acts of violence direct at women, delimiting what may be acceptable or unacceptable behaviour for both women and men."[112] As Geraldine Finn points out, news stories on rape "keep women nervous and they keep us in our proper place – subordinate and submissive to men."[113] Women who are raped, particularly women who have a sexual past, pay the ultimate price for ignoring societal conditions and socially constructed sex roles.

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[111] Jane Doe, *The Story of Jane Doe: A book about rape* (Toronto: Random House, 2003) at 118.

[112] Marian Meyers, *News Coverage of Violence Against Women: Engendering Blame* (London: Sage Publications, 1997) at 3.

[113] Geraldine Finn, "Taking Gender in Account in the 'Theatre of Terror': Maintenance of Male Dominance," (1989-1990) CJWL. 375 at 387.

Police warnings were issued in news releases by all the police departments as a public safety issue in 2002, but as I have previously stated, they were offered in greater volume by Toronto and Winnipeg police. Shelly Glover, the Public Information Officer with the Winnipeg Police Service, says she makes a point of choosing her words carefully when issuing warnings to the media about sexual assault crimes:

> In a case like that, when you're warning women to be careful, careful may not be the word, it should be, to be alert. And certainly if I even as a 30-something-year old woman, if I see that in the newspaper, it's two blocks from my home, I appreciate it. To be alert, to be aware, careful won't be something we would be saying because that suggests its something that the victim could have done. We're suggesting you be alert because he's out there.[114]

According to Mark Pugash with the Toronto Police Service detailed information is important:

> They can then make choices depending on the information that we provide to them. I think that our view (and it extends beyond sexual assault cases) is that in a wide variety of offences where there is a threat we provide people with information. They can then make their decisions as to what they want to do. At the same time, we hope the information we provide leads to catching people who are committing these crimes.[115]

Pugash says that providing women with warnings gives them the opportunity to protect themselves. He says this means that the information provided must be meaningful and detailed and that police are providing only facts or tools which they can effectively use.[116]

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[114] Interview of Shelly Glover, Constable, Winnipeg Police Service (03 June 2004) in person in Winnipeg.

[115] Interview of Mark Pugash, Director of Corporate Communications, Toronto Police Service (28 October 2004) in person in Toronto.

[116] Ibid.

I agree that woman should be made aware about sexual violence in their neighbourhoods, but I assert that sexual assault crimes cannot be treated in the same manner as crimes like assault or robbery simply because attitudes about sexual assault crimes are shaped by these deeply ingrained myths. Thus, releasing information about what an individual can do to protect themselves from identity theft or assault does not have the same effect as releasing information about what a victim can do to protect herself from rape. As Doe writes, women already know how to protect themselves.[117] She suggests instead that police departments should give women information that "does not interfere with (their) investigation. Give us dates, times, locations, any description (they) might have and let us work in the community to craft solutions and to support (the police) and each other."[118] Second, by warning women about the stranger assault, police ignore the reality that the majority of sexual assaults occur between people who know each other. As Doe argues, the impact of "stranger danger" warnings is that it "creates a climate of fear that ensures a large degree of control over how and where women live."[119]

To be included in the category that the victim provoked her rape, stories not only contained police warnings, they also discussed the victim's behaviour prior to the attack -- for example if the newspaper account suggested that the woman was walking alone, late at night, or if it said that the victim had been drinking prior to the assault. In 2002, the victim provoking sexual assault myth was used in 10.6% of the stories (162 stories) on sexual assault. The *National Post* used the myth in 6.5% of its stories

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[117] Jane Doe, *The Story of Jane Doe: A book about rape* (Toronto: Random House, 2003) at 127.
[118] Ibid.
[119] Ibid at 126.

(16 stories), while the *Globe* used it in 13.6% of its stories (22 stories). Five of the *Post* stories and six of the *Globe* stories referred to the victim drinking before the sexual assault. Three of the *Globe* stories also featured police warnings about victims' behaviour. In one story, police warned women to "not walk alone in secluded areas."[120] In another story, police cautioned parents and caregivers to "be vigilant in street-proofing children."[121] In yet another story, police warned women "never to leave their drinks unattended at social events" because of the use of date-rape drugs.[122] In these stories, it is women's behaviour that is being singled out as the causal factor.

Victim blaming was not merely the domain of the police however. In a *Post* story that detailed the sexual assault of an 11-year-old girl, the victim's mother invoked this myth. The girl had been sexually assaulted by a 33-year-old man she had met after chatting with him on the Internet. In the October 16th story, the mother is quoted as saying:

> "I told her not to go into chat rooms. She still did," said her mother. "Things may happen, people go there and pretend to be other people. I told her not to give out her name or phone number. There are a lot of sick people out there."[123]

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[120] Allan Woods "Victim of sexual assault had infectious disease" *Globe and Mail* (22 July 2002) A12.
[121] "Peel police warn of Brampton pedophile" *Globe and Mail* (25 April 2002) A24.
[122] Andre Picard "Quebec girl gang raped, police suspect drink spiked" *Globe and Mail* (14 October 2002) A2.
[123] Susanne Hiller "Computer of suspect in sex assault of girl, 11, seized" *National Post* (16 October 2002) A19.

The mother of the victim who pressed charges against Michel Chrétien also perpetuated the victim blaming myth in a story that appeared in the *Globe* on July 29, 2002. In it, she was quoted as saying

> "I warned them, I just said, 'Don't get drunk there. If you're going there I can't stop you, you know, be together, don't get drunk, leave there, know what you're doing,' and it just happened…"[124]

Chrétien had been charged after an 18-year-old told police that he had sexually assaulted her in his Yellowknife apartment.[125]

The myth that the victim provoked the sexual assault was also dominant in the local papers. This myth was used in 11.8% (124) of the stories in the local newspapers in 2002. What is particularly interesting is that the *Toronto Star* was statistically more likely than any of the other local newspapers to use this myth.[126] In total, 15.0% of the *Star*'s stories suggested that the victim's behaviour provoked the attack (44 stories).

The *Winnipeg Free Press* also had a high proportion of its news reports containing the rape myth that the victim provoked the assault by her behaviour. It appeared in 15.3% of the stories (31 stories) in the *Free Press.* Halifax used this myth in 10.4% of its stories (32 stories) and in Victoria it was used in 6.8% of the stories (17 stories). It becomes clear that the more involved the police departments are in communities, the higher the likelihood that the rape myth blaming the victim will be used. As indicated in previous chapters, both the Toronto and Winnipeg Police Service sent out regular news releases about sexual violence, while Halifax and Victoria did not.

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[124] Jill Mahoney "Mother says daughter told not to go to PM's son's flat" *Globe and Mail* (29 July 2002) A1.

[125] Ibid.

[126] 35.5% in the *Star* compared to 13.7% in the *Times* Colonist, 25.0% in the *Free Press*, and 25.8% in the *Chronicle Herald*; significant at p<.01.

Examples of Toronto stories that were determined to be blaming the victim included the story of a 19-year old woman raped and killed by a serial killer. Police were quoted in the story as saying the victim was "walking along a dimly lit sidewalk near CFB Trenton" at night.[127] The inclusion of the words dimly lit suggests clearly that the woman was doing what she had been warned not to do. She was exposing herself to danger by walking in an unsafe place. If police were wanting to protect women, why did they not release the actual location of the dimly lit street? Or urge city officials to install better lighting?

In another story, Toronto police said a woman was bound, robbed and sexually assaulted in her apartment. Police said the man "buzzed from the lobby and (the victim) thought it was her husband coming home"[128] suggesting that the woman's actions provided the perpetrator access to her apartment. Police in Don Mills also warned women to be "extremely cautious" after a 20-year old woman was raped when a man followed her home after she got off a bus.[129] Five other women had been accosted by a man in that area in a four-month period, but the police did not talk about increasing patrols in the area.[130] Instead, it is women who must remain vigilant.

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[127] Michelle Shephard "Tracking a deadly predator in wake of Bernardo" *Toronto Star* (06 January 2002) A01.

[128] "Toronto news" *Toronto Star* (18 February 2002) B03.

[129] Cal Millar "Serial sexual predator warning – sixth woman attacked in Don Mills, police say" *Toronto Star* (19 April 2002) B03.

As stated earlier, the police in Winnipeg were much more careful in the language they used to warn women about sexual predators. In a story that ran on February 16, 2002, the police "advised" Winnipeg residents that a serial rapist was being released back to the public and was at risk to re-offend. The *Free Press* used the word "warn" in its description of the story in its headline and its opening paragraph.[131] I argue that changing the police advisory to a police warning has a punitive effect in that a warning suggests there was something that an individual can do to prevent sexual assault, while an advisory does not carry that connotation.

There were other stories in which the police in Winnipeg did issue warnings. The rapes of elderly women in a Winnipeg neighbourhood prompted police to release a composite sketch of the offender and warn women to take precautions. A police sergeant told reporters that "if elderly women are out walking alone, they should get someone to walk with them. We don't want them locking themselves up in their homes, but they should take precautions."[132] In an investigation of two separate sexual assaults in September 2002, a police spokesperson suggested that "if women believe they're being followed by someone suspicious they should keep their distance as best as possible and go into the nearest business to contact police."[133] It is interesting that in these stories, there is no warning to the perpetrators that the police are stepping up efforts to ensure that they will be caught and prosecuted. Additionally, when police release warnings about sexual assault crimes it is without context. There is no understanding why women are walking late at night. Is it because the transit system in their city is unsupervised? Is it because they are shift-workers? The underlying assumption about the victim's behaviour is that she was being reckless and irresponsible.

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[130] Ibid.

[131] Bruce Owen "Sex offender free, police warn public. They expect he'll live in city, reoffend" *Winnipeg Free Press* (16 February 2002) A18.

[132] Bruce Owen "8th woman attacked. Sexual predator steps up violence in latest assault" *Winnipeg Free Press* (05 October 2002) A1.

As stated earlier, the cities in which police departments were not as actively involved in sending out news releases had significantly fewer stories that contained a myth blaming the victim; however, there were still some instances in which the victim was blamed. In Halifax and Victoria, the majority of these stories came out of court coverage. For example, in the *Halifax Chronicle Herald* court story in which a former police chief was found guilty of sexually assaulting a 14-year old girl, the perpetrator is quoted claiming "the girl made advances before he fondled her."[134] In Victoria, for example, a story covering the trial of a man charged with sexual assault opened with this statement: "A 16-year old Victoria girl admitted Wednesday she made a mistake getting into a van with a stranger in downtown Victoria in February 2000."[135] This type of victim blaming, whether by the police, the victim's family or the perpetrator reiterate the sexual assault myth that suggest it is the (female) victim's behaviour and not the (male) perpetrator's that must be controlled.

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[133] "In brief" *Winnipeg Free Press* (28 September 2002) A8.
[134] Ian Fairclough "Doctor, cop sentence for sex assaults. Ex-police chief Martin jailed for one year" *Halifax Chronicle Herald* (21 September 2002) A1.
[135] Sandra McCulloch "Girl admits making mistake when she got into man's van" *Victoria Times Colonist* (22 August 2002) B2.

Rape Myths And Sex Of Reporter

Once I determined the presence of myths and the type of myths used, I moved to examining relationships between the use of myths and other variables including sex of reporter, sex of victim or status of the sexual assault. As indicated at the beginning of this chapter, the *Post* coverage contained a slightly higher percentage of rape myths than that of the *Globe*. Slightly fewer than 60% of the stories in the *Post* (59.5% or 147 stories) had a rape myth compared to 57.1% in the *Globe* (132 stories). There was a statistically significant relationship between the sex of the reporter and the use of myths for the *National Post*. In the *Post*, 77.8% of the stories written by female reporters contained rape myths compared to 63.0% of the stories written by male reporters. In part, this higher proportion of rape myths in stories written by female reporters may be due to the *Post's* coverage of the Sclater case by Francine Dube (please see Chapter 5). The relationship between female reporters at the *Post* and the use of rape myths supports an assertion made by James Winter in *Media Think* that the media undermine women. Winter suggests that *Post* is more likely to distort news in order to further its "antifeminist and misogynist agenda."[136]

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[136] James Winter, *Media Think* (Montreal: Black Rose Books, 2002) at 39.

Table 6.3: Sex of reporter by rape myths present: national newspapers[137]

National Post	**Rape Myth used**	**No Rape Myth used**	**Total**
Male	51	30	**81**
% within sex	63%	37%	**100%**
Female	35*	10	**45**
% within sex	77.8%	22.2%	**100%**
No by-line	53	58	**111**
% within sex	47.7%	52.3%	**100%**
Total	**139**	**98**	**237**
% within sex	**58.6%**	**41.4%**	**100%**
Globe and Mail	**Rape Myth used**	**No Rape Myth used**	**Total**
Male	38	27	**65**
% within sex	58.5%	41.5%	**100%**
Female	40	21	**61**
% within sex	65.6%	34.4%	**100%**
No by-line	43	45	**88**
% within sex	48.9%	51.1%	**100%**
Total	**121**	**93**	**214**
% within sex	**56.5%**	**43.5%**	**100%**

*significant at p<.01

In Toronto and in Halifax, the rape myth was more likely to be employed by a female reporter than a male. At the *Star*, 78.6% of the stories written by a female reporter contained a rape myth, compared to 70.1% of the stories written by a male reporter and 44.1% written with no by-line At the *Chronicle Herald* 63.4% of the stories written by a female reporter had a rape myth compared to 57% written by a male reporter and 41.8% written with no by-line. In the *Free Press*, male reporters are more likely to write a story with a rape myth than female reporters – 69.2% of the stories written by male reporters at the *Free Press* contained rape myths compared to 36.4% of the stories written by female reporters and 45.0% written with no by-line. At the *Victoria Times Colonist*, there is no statistical relationship. Close to 70% of the stories written by male reporters contained a rape myth in Victoria (68.9%) while

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[137] In both the national and newspapers, I excluded the stories in which the sex was unknown to reduce the number of cells with an expected count less than 5. Chi-Square divides frequencies by expected cell frequencies and if the expected frequencies in individual cells are small, they greatly inflate the value. In both the local and national papers, the number of reporters whos sex is unknown created a situation where more than 20% of the cells had an expected frequency below 5 which lowered the reliability of the Chi-Square.

67.5% of the stories written by female reporters contained a myth and 52.3% of the stories written without a by-line.

One of the reasons for the relationship between sex of reporter and the use of rape myths in Halifax may be that Sherri Borden was the court reporter for the *Chronicle Herald* during the period under study. At the *Free Press*, the opposite is true. It is a male reporter (Mike McIntyre) who was responsible for covering the court sessions and Bruce Owen was the male reporter covering the police beat. This may account for why the relationship between the sex of the reporter and the rape myth in Winnipeg as well. It is not clear, however, why this is the case in Toronto, as the use of the rape myth appears to be evenly divided between male and female reporters.

Table 6.4: Sex of reporter by rape myths present: local newspapers

Victoria Times Colonist	**Rape Myth used**	**No Rape Myth used**	**Total**
Male % within sex	31 68.9%	14 31.1%	**45** **100%**
Female % within sex	27 67.5%	13 32.5%	**40** **100%**
No by-line % within sex	80 52.3%	73 47.7%	**153** **100%**
Total **% within sex**	**138** **58.0%**	**100** **42.0%**	**238** **100%**
Winnipeg Free Press	**Rape Myth used**	**No Rape Myth used**	**Total**
Male % within sex	54*** 69.2%	24 30.8%	**78** **100%**
Female % within sex	8 36.4%	14 63.6%	**22** **100%**
No by-line % within sex	45 45.0%	55 55.0%	**100** **100%**
Total **% within sex**	**107** **53.5%**	**93** **46.5%**	**200** **100%**
Toronto Star	**Rape Myth used**	**No Rape Myth used**	**Total**
Male % within sex	54 70.0%	23 29.9%	**77** **100%**
Female % within sex	55* 78.6%	15 21.4%	**70** **100%**
No by-line % within sex	60 44.1%	76 55.9%	**136** **100%**
Total **% within sex**	**169** **59.7%**	**114** **40.3%**	**283** **100%**
Halifax C.H.	**Rape Myth used**	**No Rape Myth used**	**Total**
Male % within sex	49 57.0%	37 33.0%	**86** **100%**
Female % within sex	45** 63.4%	26 36.6%	**71** **100%**
No by-line % within sex	59 41.8%	82 58.2%	**141** **100%**
Total **% within sex**	**153** **51.3%**	**145** **48.7%**	**298** **100%**

***significant at p<.01**
****significant at p<.01**
*****significant at p<.01**

Rape Myths And Use Of Sources

The use of sources had an impact on the use of rape myths in all the newspapers under study. Nationally, in the *Post,* 85.0% of the stories with a rape myth (125 stories) used sources, compared to 15.0% of the stories (22 stories) where no source was used. In the *Globe and Mail*, 90.9% of the stories (120 stories) with a rape myth used sources, while only 9.1% of the stories (12 stories) with rape myth had no sources. This suggests that in-brief stories that usually did not contain sources were less likely to contain a rape myth. In other words, the shorter the news item, the more reliance there was on providing basic information about sexual assault crimes, and the less likely there was to be a rape myth used.

Table 6.5: Use of sources by rape myths present: national newspapers

National Post	**Rape Myth used**	**No Rape Myth used**	**Total**
Sources used % within rape myths	125* 85.0%	66 66.0%	**191** **77.3%**
No Sources used % within rape myths	22 15.0%	34 34.0%	**56** **22.7%**
Total **% within rape myths**	**147** **100%**	**100** **100%**	**247** **100%**
Globe and Mail	**Rape Myth used**	**No Rape Myth used**	**Total**
Sources used % within rape myths	120 90.9%	69 69.7%	**189** **81.8%**
No Sources used % within rape myths	12 9.1%	30 30.3%	**42** **18.2%**
Total **% within rape myths**	**132** **100%**	**99** **100%**	**231** **100%**

*significant at p<.01
**significant at p<.01

Locally, stories that quoted or paraphrased sources were also more likely to contain a rape myth. In the *Victoria Times Colonist* 95.9% of the stories with a rape myth (140 stories) used a source compared to 4.1% of the stories with a rape myth (6 stories) that had no sources. In Winnipeg, 90% of the stories (99 stories) with a rape myth contained sources, compared to only 10.0% (11 stories) for those without sources. The numbers are high in Toronto as well. In the *Star*, 94.4% of the stories with a rape myth quoted or paraphrased a source (168 stories) while only 5.6% without sources (10 stories). Finally in Halifax, 96.2% of the stories with rape myths (151 stories) used sources compared to 3.8% (6 stories) that did not.

As outlined in Chapter 5, news sources have a direct impact on the way a story is framed. According to Teun van Dijk, our social hierarchy is reproduced by the use of sources, with those who are deemed credible and reliable given prominence.[138] Thus, the "credible" and "reliable" source is the purveyor of the sexual assault myth in the majority of the news stories. But, again, the reporter is the one who determines which source is used when.

Table 6.6: Use of sources by rape myths present: local newspapers

Victoria Times Colonist	**Rape Myth used**	**No Rape Myth used**	**Total**
Sources used	140*	89	**229**
% within rape myths	95.9%	86.4%	**92.0%**
No Sources used	6	14	**20**
% within rape myths	4.1%	13.6%	**8.0%**
Total	**146**	**103**	**249**
% within rape myths	**100%**	**100%**	**100%**
Winnipeg Free Press	**Rape Myth used**	**No Rape Myth used**	**Total**
Sources used	99**	73	**172**
% within rape myths	90.9%	78.5%	**84.7%**
No Sources used	11	20	**31**
% within rape myths	10.0%	21.5%	**15.3%**
Total	**110**	**93**	**203**
% within rape myths	**100%**	**100%**	**100%**
Toronto Star	**Rape Myth used**	**No Rape Myth used**	**Total**
Sources used	168***	79	**247**
% within rape myths	94.4%	68.1%	**84.0%**
No Sources used	10	37	**47**
% within rape myths	5.6%	31.9%	**16.0%**
Total	**178**	**116**	**294**
% within rape myths	**100%**	**100%**	**100%**
Halifax C.H.	**Rape Myth used**	**No Rape Myth used**	**Total**
Sources used	151****	128	**279**
% within rape myths	96.2%	84.8%	**90.6%**
No Sources used	6	23	**29**
% within rape myths	3.8%	15.2%	**9.4%**
Total	**157**	**151**	**308**
% within rape myths	**100%**	**100%**	**100%**

*significant at p<.01
** significant at p<.01
***significant at p<.01
****significant at p<.01

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[138] Teun van Dijk, *News as Discourse* (Hillsdale: Lawrence Erlbaum Associates, 1987) at 87.

Rape Myths And Status Of Sexual Assault

I was interested in determining at what point in the sexual assault investigation the sexual assault myths were most prevalent. I recoded the categories in the status of sexual assault to combine the categories of the stages within the court process, including coverage of the sexual assault trial, the appeals, and the decisions along with coverage of civil suits. I also combined the categories for the steps of the police investigation, including the complaint made to police and information about an arrest being made. I left the institutional coverage of rape cases which included the church's response to allegations within the Catholic diocese and the discussions regarding the residential school abuses as a single category and called it institutional response. The remainder of the stories were recoded into the "other" category and were not included. The court process, the police investigation and the institutional responses to sexual assault represent 89.1% of the cases under study (1365 cases). By doing this, it becomes clearer at what stage in the sexual assault process the myths dominate. In all the newspapers except for the *Winnipeg Free Press*, stories that contained rape myths were statistically more likely to result from the coverage of the court process than coverage of the police investigation or the institutional response to sexual assault.

Nationally, stories that contained rape myths were more likely to show up in stories regarding the court process than in any other type of story about sexual assault. In the *National Post*, 44.5% of the stories (57 stories) with rape myths dealt with the court process, compared to 28.9% (37 stories) that were written about the police investigation and 26.6% (34 stories) about the institutional responses to rape. In the *Globe*, 51.2% of the stories with rape myths (64 stories) were written about the court process, while only 27.2% were written about the police process (34 stories) and 21.6% were about the institutional responses to sexual assault (27 stories).

Table 6.7: Status of sexual assault by rape myths: national newspapers

National Post	**Rape Myth used**	**No Rape Myth used**	**Total**
Court process	37*	39	**76**
% within status	28.9%	45.9%	**35.7%**
Police Investigation	57	31	**88**
% within status	44.5%	36.5%	**41.3%**
Institutional/war	34	15	**49**
% within status	26.6%	17.6%	**23.0%**
Total	**128**	**85**	**213**
%within status	**100%**	**100%**	**100%**
Globe and Mail	**Rape Myth used**	**No Rape Myth used**	**Total**
Court process	61**	27	**88**
% within status	69.3%	30.7%	**100%**
Police Investigation	34	37	**71**
% within status	47.9%	52.1%	**100%**
Institutional/war	14	14	**28**
% within status	50.0%	50.0%	**100%**
Total	**132**	**99**	**231**
%within status	**57.1%**	**42.9%**	**100%**

*significant at $p<.05$
**significant at $p<.05$

As stated earlier, except for the coverage in the *Free Press,* stories that contained rape myths were statistically more likely to come out of the court process in the local papers as well. In Victoria, 49.6% of the stories (64 stories) with a rape myth were written about the court process, compared to 22.5% from coverage of the police investigation (29 stories) and 27.9% from coverage of institutional responses to rape (36 stories). For the *Toronto Star*, 53.2% of the stories with a rape myth were the result of court coverage (92 stories) while 30.1% came out of the police investigation (52 stories) and 16.8% (29 stories) were from institutional responses). In the *Halifax Chronicle Herald*, 67.1% of the stories with rape myths were written about the court process (96 stories) while 17.5% (25 stories) followed the police investigation and

15.4% (22 stories) were about the institutional response to sexual assault. While Winnipeg did not demonstrate a statistical relationship, it still had a higher percentage of stories with a rape myth that dealt with the court process (52.9% or 55 stories), while 29.8% of the rape myth stories were from the police investigation (31 stories) and 17.3% (18 stories) followed the institutional response.

Table 6.8: Status of sexual assault by rape myths: local newspapers

Victoria Times Colonist	**Rape Myth used**	**No Rape Myth used**	**Total**
Police	29	28	**67**
% within status	22.5%	43.7%	**31.0%**
Court	64*	31	**95**
% within status	49.6%	35.6%	**44.0%**
Institutional	36	18	**54**
% within status	27.9%	20.7%	**25.0%**
Total	**129**	**87**	**216**
% within status	**100%**	**100%**	**100%**
Winnipeg Free Press	**Rape Myth used**	**No Rape Myth used**	**Total**
Police	31	36	**67**
% within status	29.8%	43.4%	**35.8%**
Court	55	35	**90**
% within status	52.9%	42.2%	**48.1%**
Institutional	18	12	**30**
% within status	17.3%	14.5%	**16.0%**
Total	**104**	**83**	**187**
% within status	**100%**	**100%**	**100%**
Toronto Star	**Rape Myth used**	**No Rape Myth used**	**Total**
Police	52	74	**126**
% within status	30.1%	68.5%	**44.8%**
Court	92**	25	**117**
% within status	53.2%	23.1%	**41.6%**
Institutional	29	9	**38**
% within status	16.8%	8.3%	**13.5%**
Total	**173**	**108**	**281**
% within status	**100%**	**100%**	**100%**
Halifax C.H.	**Rape Myth used**	**No Rape Myth used**	**Total**
Police	25	36	**61**
% within status	17.5%	31.6%	**23.7%**
Court	96***	57	**153**
% within status	67.1%	50.0%	**59.5%**
Institutional	22	21	**43**
% within status	15.4%	18.4%	**16.7%**
Total	**143**	**114**	**257**
% within status	**100%**	**100%**	**100%**

*significant at p<.01
**significant at p<.01
***significant at p<.05

The fact that the rape myths are more likely to come out of the court process is not that surprising. There have been many feminist critiques regarding the way sexual assault trials treat the female victim.[139] Smart points out that the rape trial "is truly Kafkaesque for the woman who has experienced terror and/or humiliation but who is treated like a bystander to the events she apparently willed upon herself and for which it is seen as seeking an unjustified and malevolent revenge."[140] It can be argued that in the coverage of sexual assault trials, the media focus on the victim's responsibility rather than on wider social values, thus supporting researchers' beliefs that the media act as social controlling agents, particularly in their portrayal of women.[141] Women in the media discourse of a rape trial are shown the proper way to act and are warned "with cautionary tales ... of the unpleasant results of ignoring their advice."[142]

Furthermore, a comprehensive study of the language used in sexual assault trials in Western Canada indicates that often the trial judgements used language that further perpetuated the myths about rape. The study conducted between 1986 and 1992 found that often the judges described sexual assault in terms "more suitable to consensual acts than to assault."[143] Sexual assault was portrayed as an outcome of uncontrollable sexual appetite rather than an act of aggression against women.[144] It becomes clear that when reporting on sexual assault crimes, the reporters relied on legal sources in the coverage of sexual assault trials.

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[139] See for example Brownmiller 1975; Boyle 1984; Gunn and Minch 1988; Smart 1989; Gotell 2002; Jane Doe 2003

[140] Carol Smart *Feminism and the Power of Law* (London: Routledge, 1989) at 34.

[141] See Davies. 1987; Ericson et. al. 1989; Martin 1997; Finn 1989/90; Voumakis and Ericson 1984.

[142] Catherine Davies, *Out of Focus: Writings on Women and the Media* (London: Women's Press, 1987) at 4.

[143] Linda Coates, Janet Beavin Bevalus and James Gibson, "Anomalous language in sexual assault trial judgements," in (1994) 5:22 Discourse and Society. 189 at 191.

[144] Ibid at 193.

Examples of the myths inherent in the rape trial include the coverage of the sexual assault trial of a Toronto man charged with sexually assaulting his 13-year old daughter that ran in the *Globe* on October 23, 2002. The opening paragraph revealed that the 13-year-old had previously suggested her teacher and then a 12-year-old classmate had sexually assaulted her. The second paragraph quotes the Crown as telling the "DNA analyses of the girl's aborted fetus, semen on her cloths and sperm heads in her underwear proves beyond a reasonable doubt that her father raped her."[145] The Crown Prosecutor then talks about how "the wrong man…was initially charged and had to endure 11 months while police investigated."[146] Then, the defence lawyer "accused the girl and her mother of concocting all of the allegations."[147] By choosing to open the story with information about how the 13-year old had falsely incriminated a teacher and a classmate, the reporter sanctions the myth that innocent men are being falsely accused of rape. This myth is endorsed further by the Crown prosecutor. Finally, the defence lawyer's contention that the girl and her mother made up the rape allegations supports the myth that victims lie about rape.

Another illustration of rape myths that occurred in the reporting of a sexual assault trial is the *Halifax Chronicle Herald*'s coverage of the trial of a 15-year old who accused a 55-year old Police Chief of sexual assault. The story, published on June 6, 2002, focussed on the defence portion of the court proceedings and it outlined the inconsistencies of the girl's actions. The myth that conflates sex with sexual assault is reinforced in the defence lawyer's questioning of the victim: "'You were in control, you were calling the shots, you would tell him when you wanted to see him, Mr. Manning said. 'You initiated sexual contact.'"[148]

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[145] Jane Gadd, "Father's DNA a match, court told. Analyses of semen, fetus show he made adopted daughter pregnant, attorney says." *Globe and Mail* (23 October 2002) A25.
[146] Ibid.
[147] Ibid.

These are just some examples of how coverage of the court process can reinforce myths about sexual assault, particularly when the coverage includes the defence portion of the trial. One could argue that the reporters are just doing their job in describing the actions within the courtroom; however, more research needs to be done to compare the actual testimony during a sexual assault trial to the coverage of the trial to determine what is being ignored and what is being given priority.

Rape Myths And The Victim

There appeared to be no statistical relationship between the use of rape myths and the sex of the victim at either the national and local level. Overall, 63.4% of the stories with a rape myth had a male victim (71 stories) while 62.3% of the stories with a female victim had a rape myth (154 stories). In the *Post*, rape myths are used in just over 64% of the stories with a male victim (44 stories) and in just over 62% of the stories with a female victim (69 stories). In the *Globe*, rape myths are used in just over 61% of the stories with a male victim (27 stories) and just over 62% of the stories with a female victim (85 stories).

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[148] Ian Fairclough "Police chief's lawyer grills sex accuser: 15-yer-old's statements to police contradict testimony" *Halifax Chronicle Herald* (06 June 2002) A6.

Table 6.9: Sex of victim by rape myths present: national newspapers[149]

National Post	**Rape Myth used**	**No Rape Myth used**	**Total**
Male % within sex	44 64.7%	24 35.3%	68 100%
Female % within sex	69 62.2%	42 37.8%	111 100%
Total **% within sex**	**113** **63.1%**	**66** **36.9%**	**179** **100%**
Globe and Mail	**Rape Myth used**	**No Rape Myth used**	**Total**
Male % within sex	27 61.4%	17 38.6%	44 100%
Female % within sex	85 62.5%	51 37.5%	136 100%
Total **% within sex**	**112** **62.2%**	**68** **37.8%**	**180** **100%**

In the local newspapers, rape myths were used in 66% of the stories with a male victim (159 stories) and in 60.3% of the stories (353 stories) with a female victim. In the *Times Colonist,* 70.6% of the stories with a male victim had a rape myth (36 stories) compared to 59.8% of the stories with a female victim (79 stories). In the *Free Press*, 53.8% of the stories (28 stories) with a male victim had a rape myth compared to 59.8% of the stories (70 stories) with a female victim. In the *Star* 71.6% of the stories (48 stories) with a male victim had a rape myth, while 61.1% of the stories with a female victim contained a rape myth (118 stories). Finally, in the *Chronicle Herald,* 66.2% of the stories (42 stories) with a male victim had a rape myth while 60.1% of the stories with a female victim (86 stories) had a rape myth.

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[149] Again, in both the national and local papers, the cases in which the sex of the victim was both male and female were omitted in order to reduce the number of cells with an expected count less than 5.

Table 6.10: Sex of victim by rape myths present: local newspapers

Victoria Times Colonist	**Rape Myth used**	**No Rape Myth used**	**Total**
Male % within sex	36 70.6%	15 29.4%	**51** **100%**
Female % within sex	79 59.8%	53 40.2%	**132** **100%**
Total **% within sex**	**115** **62.8%**	**68** **37.2%**	**183** **100%**
Winnipeg Free Press	**Rape Myth used**	**No Rape Myth used**	**Total**
Male % within sex	28 53.8%	24 46.2%	**52** **100%**
Female % within sex	70 59.8%	47 40.2%	**117** **100%**
Total **% within sex**	**98** **58.0%**	**47** **42.0%**	**169** **100%**
Toronto Star	**Rape Myth used**	**No Rape Myth used**	**Total**
Male % within sex	48 71.6%	19 28.4%	**67** **100%**
Female % within sex	118 61.1%	75 38.9%	**193** **100%**
Total **% within sex**	166 63.8%	94 36.2%	**260** **100%**
Halifax C.H.	**Rape Myth used**	**No Rape Myth used**	**Total**
Male % within sex	47 66.2%	24 33.8%	**71** **100%**
Female % within sex	86 60.1%	57 39.9%	**143** **100%**
Total **% within sex**	133 621.%	81 37.9%	**214** **100%**

The age of the victim also did not appear to have an impact on the use of myths in the national newspapers. In just over 62% of the *Post* stories a rape myth was present when the victim was under 18 years of age and in just over 60% of the stories, myths were present when the victim was 18 or older. When there was a victim under the age of 14, the percentage of rape myths dropped even further. Just over 57% of the stories with a victim under 14 had a rape myth in the *Post*. In the *Globe* there was slightly more variance, with just over 56% of the stories containing rape myths when the victim was under 18 and close to 70% of the stories with rape myths when the victim was 18 or older. Just over 56% of the stories in the *Globe* had rape myths when the victim was under 14. There was no statistical relationship between the two variables. What is particularly depressing is that even young victims are not protected from the stereotypes surrounding sexual assault victims.

In two of the local newspapers, the age of the victim did have an impact on the use of rape myths. In the *Winnipeg Free Press,* 71.2% (37 stories) written with a rape myth concerned a victim who was 18 years of age or older compared to 53.0% (61.0% stories) with a victim under 18.[150] In the *Halifax Chronicle Herald,* 82.5% (33 stories) written with a rape myth concerned a victim who was 18 years of age or older compared to 52.1% for those under 18 (86 stories).[151] This supports Chen's assertion that child victims or at least in this case, victims 18 and under are more likely to be viewed as "ideal" victims particularly by official sources.[152]

Rape Myths And The Perpetrator

The sex of the perpetrator did have an effect on the use of rape myths in all the papers except the *Globe and Mail,* which did not have enough stories with female perpetrators to determine a statistical relationship. In the *Post,* 95.7% of the stories with a female perpetrator contained a myth, compared to 58.7% of the stories with a male perpetrator. As I said the *Globe* only ran eight stories with a female perpetrator and thus there were too few cases to run a Chi-Square; however, of those eight stories, five contained a rape myth (62.5%). Given that I examined all the stories that ran in the *Globe* in 2002, however, this percentage difference can still be considered important.

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[150] significant at $p<.05$
[151] significant at $p<.01$
[152] Xiaobei Chen, "The Birth of Child-Victim Citizen" in Janine Brodie and Linda Trimble, eds., *Reinventing Canada: Politics of the 21st Century* (Toronto: Prentice Hall, 2003) 189 at 200.

Table 6.11: Sex of perpetrator by rape myths present: national newspapers [153]

National Post	Rape Myth used	No Rape Myth used	Total
Male % within sex	101 58.7%	71 41.3%	172 **100%**
Female % within sex	22* 95.7%	1 4.3%	23 **100%**
Total % within sex	**123 63.1%**	**72 36.9%**	**195 100%**
Globe and Mail	**Rape Myth used**	**No Rape Myth used**	**Total**
Male % within sex	114 60.0%	76 40.0%	190 100%
Female % within sex	5 62.5%	3 37.5%	8 100%
Total % within sex	**119 60.1%**	**79 39.9%**	**198 100%**

* *significant at p<.01

Locally, the sex of the perpetrator also made a difference in the use of rape myths. Again, if there was a female perpetrator, the papers were more likely to run a story containing a rape myth. In the *Victoria Times Colonist* and the *Winnipeg Free Press*, 100% of the stories with a female perpetrator contained a rape myth. By contrast, in the *Times Colonist*, only 57.1% of the stories with a male perpetrator contained a rape myth (101 stories with a male perpetrator compared to 20 stories with a female perpetrator). In the *Free Press*, 53.3% of the stories with a male perpetrator had a rape myth (90 stories with a male perpetrator compared to 13 stories with a female perpetrator;). In the *Star* 86.2% of the stories with a female perpetrator (25 stories) contained a rape myth compared to 59.2% of the stories with a male perpetrator (142 stories). The *Chronicle Herald* had myths in 89.5% of its stories with a female perpetrator (17 stories) compared to 56.4% with myths with a male perpetrator.

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[153] Again, in both the national and local papers, the cases in which the sex of the victim was both male and female were omitted in order to reduce the number of cells with an expected count less than 5.

Table 6.12: Sex of perpetrator by rape myths present: local newspapers

Victoria Times Colonist	Rape Myth used	No Rape Myth used	Total
Male	101	76	**177**
% within sex	57.1%	42.9%	**100%**
Female	20*	0	**20**
% within sex	100%	0%	**100%**
Total	**121**	**76**	**197**
% within sex	**61.4%**	**38.6%**	**100%**
Winnipeg Free Press	**Rape Myth used**	**No Rape Myth used**	**Total**
Male	90	79	**169**
% within sex	53.3%	46.7%	**100%**
Female	13**	0	**13**
% within sex	100%	0%	**100%**
Total	**103**	**79**	**182**
% within sex	**56.6%**	**43.4%**	**100%**
Toronto Star	**Rape Myth used**	**No Rape Myth used**	**Total**
Male	142	98	**240**
% within sex	59.2%	40.8%	**100%**
Female	25***	4	**29**
% within sex	86.2%	13.8%	**100%**
Total	167	102	**269**
% within sex	62.1%	37.9%	**100%**
Halifax C.H.	**Rape Myth used**	**No Rape Myth used**	**Total**
Male	124	96	**220**
% within sex	56.4%	43.6%	**100%**
Female	17****	2	**19**
% within sex	89.5%	10.5%	**100%**
Total	141	98	**239**
% within sex	59.0%	41.0%	**100%**

*significant at p<.01
** significant at p<.01
***significant at p<.01
****significant at p<.01

It becomes clear that when there is a female perpetrator in both the national and local newspapers, it is more likely that a rape myth will be used. For the most part, the rape myth that was used when there was a female perpetrator and a male victim was the myth that conflated rape with sex. It is clear that the sexual assault allegations against Sclater and Gehring were considered important news stories. Indeed, as indicated in Chapter 5, the female perpetrator was over-represented in the news coverage in 2002 and in most of the coverage of their trials, the sexual assault myth that conflated sexual violence with sex was commonly used. These were stories that called the sexual violence "partying" or "fooling around," or suggested that the assault occurred because of miscommunicated sexual signals.

Rape Myths And The Attack

Benedict outlined in her analysis that the press is more likely to believe a rape had occurred if the sexual assault was committed by a stranger. It is for this reason that I tried to determine if a rape myth was more likely to be used when the rape involved people who knew each other. This proved to be the case in the *Post.* In 2002, a rape myth was more likely to be used by the *National Post* when the sexual assault involved people who know each other (88.2% and 11.8% respectively).[154] In the *Globe*, there is no such relationship. In the local papers, the *Toronto Star* was more likely to run a story containing a rape myth if the victim knew the perpetrator (79.5% and 20.5% respectively).[155] In the other local papers the relationship did not appear.

Not surprisingly, the rape myth most frequently used when the victim knew the perpetrator was the myth that rape is a sexual act, rather than an assaultive one. In one case, the sexual assault on a 17-year old student is referred to in the *Post* as an "affair."[156] Another *Post* story about a sexual assault on an 11-year old boy in the Maple Leaf Gardens case is described as a "sex act"[157] and the headline suggested that the perpetrator "wanted sex with boy."[158] In a *Toronto Star* report, a psychotherapist admitted to sexually assaulting one of his patients in a disciplinary hearing of the Ontario College of Physicians and Surgeons. The assault is described as a "relationship" or simply "sexual intercourse."[159] It is only near the end of the story that the sexual assault is treated like an assault: "…on numerous occasions, (he) sexually abused, molested and sexually assaulted (his patient) by manipulating (her) into unprotected sexual intercourse and other forms of sexual abuse."[160] Another story quotes a woman who described her sexual assault by a Toronto Police officer. The woman said that she the officer "choked her until she couldn't breathe, threatened to kill her and the raped her in his Dominican Republic hotel room."[161] Later, the police officer called the woman "the love of his life."[162] Calling a emotionally and potentially physically violent crime a sex act or labelling it as part of a sexual relationship or something that evolves out of a loving relationship diminishes the reality of sexual violence. The description of these cases ignores the fact that the violence is being committed against children who cannot enter into adult sexual relationships and does not take into account the power inequities in these cases. It is merely sex. It is merely an affair. It is nothing to be concerned about.

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[154] significant at $p<.05$

[155] significant at $p<.01$

[156] "Ontario: Teacher accused of having affair with 17-year old student" *The National Post* (12 September 2002) A17.

[157] Michael Higgins "Ballard wanted sex with boy, civil suit says: Man claims $1M in damages: Plaintiff says Gardens owner threatened him when he refused" *The National Post* (18 October 2002) A2.

As well, the use of rape myths appeared more often in stories that featured single victims than in stories that had multiple victims. Moreover, if a story contained a rape myth it was statistically likely that the story was about a single victim rather than a multiple victim in both the *National Post* and the *Halifax Chronicle Herald* (for the *Post* it was 65.0% to 35.0% respectively;[163] and for the *Chronicle Herald* it was 62.0% to 38.0% respectively).[164] In other words, the victim is seen as more believable and is less likely to be blamed for sexual violence if there is more than one victim. However, this was not the case when there were multiple perpetrators. A story that talked abut a sexual assault committed by multiple perpetrators was no more likely to use rape myths than one about a sexual assault committed by a single perpetrator.

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[158] Ibid.

[159] Robert Cribb "Therapist barred over sex with client – woman says his actions made her feel like a 'whore'" *Toronto Star* (29 June 2002) A13.

[160] Ibid.

[161] Peter Small "Sexual assault alleged against police officer – Incident occurred during Caribbean vacation" *Toronto Star* (30 July 2002) B07.

[162] Ibid.

Conclusion

This chapter detailed the most prevalent myths used by English Canada's newspapers in 2002. It becomes clear that the conflation of sexual assault with sex remains an enduring myth despite concerted efforts by legislators and feminist groups to confront this assumption. Referring to rape as "partying," "fooling around," or "fondling" is inherently phallocentric in that it privileges the male experience while ignoring the fear, shame and powerlessness women feel under these circumstances. It belittles the woman's perspective, trivializes it and deems it unimportant.

The innocent man and the lying woman myths also seem to be ingrained in the newspapers' treatment of sexual assault crimes. This myth is predominantly the result of court coverage of sexual assault trials which pits the victim against the perpetrator. As indicated in Chapter 4 however, women's opportunity to defend themselves against the allegations that they are lying are limited and are predominantly left to official actors such as Crown prosecutors.

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[163] significant at $p<.01$
[164] significant at $p<.05$

A perpetrator's good reputation or the victim's bad reputation serves as an example of the dichotomy of the legal trial. Much like the innocent man/lying woman myth, there is little room for ambiguity in these stark portrayals of rape. Moreover, as the Angelil coverage suggests, the wealthier the accused, the more capable he is of mounting a positive public relations campaign to exonerate him long before the court process begins.

With the dominance of sexual assault stories from outside of Canada and the racist hyperbole of Mark Steyn's column in the *National Post* the myth that sets apart the rapist as the "other" also remains prominent. Women are told to beware of the identifiable minority as a source of violence. This sets the rapist apart as someone easily recognizable rather than someone who shares "our" skin colour, culture or religion. Further, if women fail to recognize the rapist, then the rape arguably becomes their fault. Finally, as Brownmiller points out, the depiction of the rapist as the "other" is another mechanism that can be used to control minorities and to view them as dangerous.[165]

The rape myth that the victim through her behaviours provoked her attack is the final myth that was well-established in English Canada's newspapers. As I have outlined, this myth is aided by the official sources, especially the police, who suggest that if women just did one thing differently, they would not be raped. If women did not buzz in strangers into their apartment buildings, walk down dimly lit streets, drink in excess, or take transit at night, they would be safe. Like the racist myth of the "other" this myth works at controlling the behaviour of women, while the actions of the perpetrator are tolerated.

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[165] Susan Brownmiller, *Against our Will: Men, Women and Rape* (New York: Fawcett Columbine, 1975) at 255.

This chapter also indicates that there are key differences amongst reporters and newspapers in the handling of the rape myths. At the national level, the *Post* ran slightly more stories with myths written by female reporters or columnists. This is largely due to the fact that a female reporter was responsible for the coverage of the Laura Sclater case. The *Post*'s corporate identity is that of a "lad's magazine" -- "unabashedly politically incorrect, sex-insensitive and inordinately interest in female celebrities with augmented breasts. From the outset, its editorial pages have expressed hostility towards orthodox feminism."[166] Female writers employed by the *Post* may feel the need to act like "one of the boys" particularly given the threat of lay-offs and corporate cutbacks. Thus, the female reporters at the *Post* may be echoing the directives of the male-oriented institution.[167]

At the local papers, the *Star* had the highest percentage of rape myths compared to the other papers and there is also evidence that female reporters were more likely than male reporters to use rape myths at the Toronto and Halifax papers. Again, in Halifax it may be because it was a female reporter responsible for covering court cases, which was a significant source for sexual assault myths.

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[166] Kevin Steel "Don't believe everything you read; the national newspapers are at war and accuracy and good taste are among the casualties." *British Columbia Report Magazine* (11 October 1999) 40.
[167] Marion Tuttle Marzolf, "Deciding what's 'women's news'." 7:2 Media Studies Journal 38 at 38.

The use of sources for all the papers under study did have an impact and as indicated, there was a statistical relationship between the use of sources and the prevalence of rape myths in all the papers. As well, court room coverage and the artificial binaries of guilt versus innocence resulted in the use of sexual assault myths as well. While the sex of the victim did not seem to have an impact on the number of rape myths used, the sex of the perpetrator did. All but one of the papers saw a higher percentage of rape myths used when there was a female perpetrator and that is a result of the large amount of coverage given to Sclater and Gehring. The most prevent myth used in those cases was the myth that conflated rape with sex.

The rape myth continues to be an enduring narrative for the story of sexual violence. It continues to have salience in the news we read about rape. Despite the work by legislators, feminists and jurists to change the way society views sexual violence, the narrative remains embedded with in these outdated and outmoded stereotypes.

Chapter 7 – A Conclusion And Some Suggestions

"There is my hope – our hope. Young women and men resisting, thinking, building, carrying on, declaring that 'rape is an issue we must work on as regularly as, for instance, capitalism, globalization and poverty.'"[1]

This analysis looked at the way the story of rape is told by analyzing how select English Canadian newspapers depicted sexual violence in 2002. It becomes clear that the story is not an easy one to tell and it is written, rewritten and voiced by many different actors. The different versions of the story create society's understanding of the crime, which plays an important role in a victim's decision to report her violence to police. This is an important study because it recognizes the different authors and their role in the creation of the myths. It does not implicate the easy scapegoat – the media. Instead, it digs much deeper to provide rich context for understanding how newspapers and the state deal with sexual assault.

The research question underpinning my analysis was whether sexual assault myths and stereotypes remained dominant in the coverage of sexual assault crimes in English Canadian newspapers well after legislative reforms designed to challenge many of these myths were implemented. I answered this question by conducting a critical discourse analysis and a content analysis on a census of news stories published in 2002 in the *National Post*, *Globe and Mail*, *Victoria Times Colonist*, *Winnipeg Free Press*, *Toronto Star* and the *Halifax Chronicle Herald*. Additionally, I interrogated the role of the newspaper reporters, editors and police in the way the sexual assault crimes were depicted.

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[1] Jane Doe, *The Story of Jane Doe: A book about rape* (Toronto: Random House, 2003) at 351.

This analysis demonstrates that rape myths and stereotypes remained prevalent in English Canadian newspapers in 2002, supporting the assertion that legislative changes have been hampered by the continued dominance of inaccurate societal beliefs about rape. The potency of the social construction of rape is established by the continued reliance on stereotypes and myths within the media. To demonstrate the salience of the use of myths, this study provided an intensive longitudinal and comparative content and critical discourse analysis of the entire universe of newspaper coverage from national and representative local newspapers. This study also for the first time employed a variety of research methods that supplemented the media analyses with interviews with police, reporters, and editors. This enhanced my understanding of the role they each play in shaping the story of sexual assault. My analysis supports the assertion that the state, through the police, plays a substantive role in shaping sexual assault myths and stereotypes.

The findings make it clear that from the interviews conducted, the reporters and editors have a firm understanding of what makes a news story an important story. All felt that stories that were horrendous, novel or featured prominent personalities were the type of stories they were more likely to follow in their papers. It also becomes clear that there are different news requirements for national papers compared to local papers. The national papers are less interested in stories that are parochial and instead focus more on the larger stories with national interest. These institutional factors had a direct impact on how the newspapers told the story.

The police are a main source for information about sexual assault, particularly in the investigative stages and thus, the more proactive the department was about releasing information about these crimes, the more coverage it was given at the investigative stage. However, all the police departments made it clear that they will release information about sexual assault out of interest of public safety and thus not all sexual assaults are released to the media. Additionally, because of privacy concerns for the victim at both the investigative and court level, details about the victim and, in some cases, the perpetrator are limited. The less detail that is available, the more difficult it is for the journalist to sell the story to his or her editors. Moreover, working to get more details took considerable time and energy on the journalists' part, something that is difficult to do given budgetary considerations.

From an agenda setting perspective, the way rape was handled in the newspapers under study distorted the public's understanding of the crime. While there were stories written about sexual assault almost daily in all the papers under study, these by no means represent the enormity of the crimes committed in Canada. Moreover, the brief descriptions of the crime do not fully enunciate the extent to which women's lives are shaped by this crime. We are only provided the basics about sexual assault – who did what to whom -- and there is no understanding of the context of the sexual violence. Additionally, more than a third of the coverage of sexual assault crimes covered focused on crimes that occurred outside of Canada. This gives us a false sense of security – that rape is something that occurs "over there" and not in our neighbourhoods. It is interesting that the *National Post* and the *Victoria Times Colonist*, owned by the same company, have the highest percentage of sexual assault stories that originated outside of Canada. This does suggest that the financial constraints placed on CanWest as a result of the merger of television and newspapers and its on-going circulation war with the *Globe ~~and~~ Mail* may have had some effect on what is covered in the newsroom, with a reliance on wire stories rather than stories covered by local reporters.[2]

The distortion of the news story of rape has significance in the understanding of rape as a public policy issue. As Taras outlines, the more salience the media give an issue, the more likely it is to be given attention by legislators.[3] The reform of the Criminal Code sought to erode the deeply-ingrained stereotypes and myths that surround sexual assault crimes. It also hoped the legislative reforms would increase the reporting rates for rape. However, this has not happened and, as this analysis indicates, myths and stereotypes remain entrenched. While the aim of making changes to sexual assault legislation was in part to increase the likelihood of woman reporting the crime and to increase women's sense of justice, statistics suggest that this has not been entirely successful. Yet, in the newspapers, sexual assault crimes remain under-reported and downplayed while its societal impact was ignored. This makes future policy debate unlikely.

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[2] Steve Maich, "Troubles at the *Globe*" *Maclean's* (01 November 2004) 36.

[3] David Taras, *The Newsmakers: the media's influence on Canadian Politics"* (Scarborough: Thompson Canada, 1990) at 33.

This study illustrates that sexual assault is framed primarily from a law-and-order perspective and it is a story that is told routinely from a male perspective in a male voice. The focus remains on the police investigation, while court stories are secondary. Few stories are told from the victim's perspective and women's organizations or sexual assault centers are seldom consulted to discuss the issue. The institutional voices remain the police and court officials each with their own particular agendas of protecting the public safety. The use of sources also provides a framing of the news story and in 2002 the framing of sexual assault stories was by male sources. Police officers remained the dominant source for information except in Halifax, where the *Chronicle Herald* quoted the victim first. Primary sources like the police and court officials were given the first opportunity to frame the story, while the second source quoted was much more varied. The victim was quoted more often as a second source, particularly in the local papers.

The coverage of court proceedings is important and necessary in order for victims to understand the process and to provide them with a sense of justice. However, too often in the coverage of the stories, the perpetrator or the defence was given primacy over the victim in telling the story of rape. Indeed, in all the newspapers, except for the *Globe* and the *Halifax Chronicle Herald*, the perpetrator was quoted first more often than the victim. Care should be taken by the newspapers to ensure that there is a balance, allowing the victim a chance to speak. Additionally, as suggested by the journalists interviewed, the decision to cover courts was often guided by economy. If the case was considered too time-consuming, the reporters may not dedicate a great deal of their time to pursuing that story or may only cover the beginning and the end of the trial. Economy may also explain the reliance of the newspapers (except the *Chronicle Herald*) on the police for their perspective rather than digging deeper for alternative perspectives. It is easier to report the police viewpoint then to look at other sources for information.

Previous studies had determined that the media tend to over-represent the rape of women by strangers. In this study, that is not the case. In fact, the newspapers under study tended to under-represent random attacks on women. This is reassuring but it needs to be coupled with more stories regarding "ordinary" sexual violence. The novelty value in reporting on rape still drives the media agenda, but the focus has moved away from the random to the bizarre, including the depiction of female perpetrators and sexual assaults that involve men of celebrity.

Sexual victimization is not only gendered, it is also racialized, because it involves a power dynamic. Yet, a true discussion of race issues is missing in the newspapers' depiction of sexual assault in 2002. Asian women are discussed in a stereotypical fashion as the exotic "other," and sexual violence against Aboriginal women is ignored. It is clear that this is a double-edged sword. On one hand you do not want to "victimize" one racial group by identifying their vulnerability to sexual violence. On the other hand, ignoring the racial aspects of sexual assault means that as a public policy issue it can remain unexamined.

There is also evidence that the "other-ing" of the male perpetrator maybe a fallout from the September 11th terrorist attacks in the United States. Muslim men and their potential to rape Canadian women were the topic of two editorials in the *National Post.* Moreover, the gang rape of a Pakistani Muslim woman was given a fair amount of interest in the national and local papers. This is obviously a potential area for a comparative analysis to determine if there have been more stories since September 11th, 2002, that portray Muslim men as criminals.

Finally, I examined the rape myths and determined that the number one rape myth used consistently by all the newspapers is the myth that sexual assault is really just romance gone wrong. The conflation of sex with sexual assault is a powerful myth that is endorsed by the language used to describe sexual violence. At times it trivializes the assault, suggesting that the incident was only minor while ignoring the victim's perspective on the incident.

Another prevalent myth is the idea that innocent men are being accused of sexual assault and its corresponding myth that women lie about rape. The innocent man myth suggests that men risk incarceration based on the fallacious claims of a woman. This is compounded by the fact that the unfounded rate for sexual assault remains quite high. Moreover, the conviction rate for sexual assault remains low as well, suggesting further that the legislative changes surrounding rape have not been successful in increasing reporting and conviction rates.

As discussed earlier, the myth that white men living in Canada do not rape women is also a dominant myth. The idea that the rapist is the "other" easily recognizable by his skin colour or his religion is in itself racist. Moreover, it allows men in this country to distance themselves from the reality of the violence. Rape does not happen here. It happens to those unfortunate to live outside of our borders. That good men do not rape women is also a myth that appeared with some frequency in both the national and local papers. The discussion of the man's (or in some cases woman's) good reputation, marital status or career dedication suggests that he can not be held responsible for this crime. At the same time, the woman's bad reputation, her criminal involvement, or her drug habit, suggests that she lacks credibility or that she is somehow responsible for her rape. These two rape myths tend to play off of one another and this was particularly noticeable when the accused was a person of celebrity.

Finally, the myth that the victim through her actions was responsible for her rape is also dominant in both local and national newspapers. This one is to some degree aided by various police department's use of warnings when a rapist remains uncaught. The critique from many women about this practise is that it controls women's behaviour and does not address the underlying issues regarding sexual violence. The use of myths in all the newspapers with disturbing regularity suggests that for journalists and editors alike, using the familiar paradigm on which to hang the news, provides a formulaic and efficient way to cover this story.

What was somewhat surprising is the finding that female reporters were more likely to use rape myths in the coverage of their stories at the *Toronto Star*, *Halifax Chronicle Herald* and at the *National Post*. This may be in part due to the fact that at Halifax at least, a female reporter was responsible for handling coverage of the courts and this was a major source for myths, particularly when the defence is quoted. The use of sources did have an impact as well in the appearance of myths. When no one is quoted, the use of myths at both national and local newspapers diminishes. This strongly suggests that the dominant sources – the police and the court room actors – are responsible for the continuation of myths in English Canada's newspapers.

The percentage of rape myths used were higher in Toronto and Victoria when there was a male rape victim. This is a direct result of the coverage of the Sclater and Gehring trial which conflated the purported sexual assault with romance. However, there was no statistical relationship with any of the papers between the use of rape myths and the gender of the victim. Statistically, the *Post* was more likely than the *Globe* to use a rape myth when the victim and perpetrator knew each other.

Which Newspaper Provided The "Best" Coverage?

It is difficult to assess which newspaper provided the "best" coverage about sexual violence in 2002, but based on its attention to the issue of sexual violence, the number of myths used in its coverage and the type of coverage that it provided, I would have to commend the *Halifax Chronicle Herald* for its treatment of the crime in 2002. As previously stated, none of the newspapers, except for the *Chronicle Herald,* fully represented the information released by police on sexual assault cases. Because the police in Halifax sent out only three news releases on sexual violence in 2002, the *Chronicle Herald* obviously did not rely on the police bureaucracy for information about sexual assault crimes in its city. The *Chronicle Herald* is also to be congratulated for being the paper with the lowest percentage of rape myths in its coverage in 2002 (51.7%; please see Chapter 6 for details on the percentages). Again, because the *Chronicle Herald* could not rely on the police for information about sexual assault crimes, it spent a substantial amount of resources covering the sexual assault trials and their verdicts when compared to the other local and national newspapers, providing the public with an understanding of the sexual assault trial process. What is remarkable is that the *Chronicle Herald* had the highest percentage of guilty verdicts in its coverage of trials compared to the other newspapers (12.7%; please see Chapter 4 for details on the percentages), arguably providing victims with a sense of justice. Moreover, the *Chronicle Herald* did not rely on the police, the defence and the Crown as sources in its coverage of sexual assault. Instead, it allowed the victim to tell her story much more frequently than any other newspaper (in 16.5% of its stories; please see Chapter 5 for details on the percentages) and the victim was the first source quoted in the plurality of its stories, followed closely by the perpetrator.

What Does This Story Mean?

The media play an important role in the shaping of public opinion and in particular the shaping of public opinion on policy issues. As Shanto Iyengar and Adam Simon point out, the news media define what they consider to be important news events. Agenda setting studies indicate that the more attention the media play to an event or issue, the more important it is seen by the public and by politicians.[4] Further, framing allows the media "peg(s)" on which to arrange the news narrative and define newsworthy events.[5]

Considerable work has been done that connects agenda setting and framing effects with public policy. In his analysis of media effects on public policy making and policy makers in Canada, Stuart Soroka made it clear that the media affects and *is affected by* policy makers and the policy agenda. Thus, the more attention the media give to certain issues, according to Soroka, the more attention that policy issue is given attention by policy makers.[6] As my analysis illustrates, the relative invisibility of sexual assault crimes in English Canadian newspapers means that sexual violence is not seen as an important public policy issue. Secondly, the silence about the vulnerability of Aboriginal women and minority women further relegates sexual violence to the bottom of the public policy agenda. There is no public concern and no public outrage that women and children continue to be sexually victimized at alarming rates. Additionally, it also becomes clear from the literature research contained in this study, that politicians have dealt with the issue of sexual assault legislation largely in response to Supreme Court decisions. [7] Thus, this study demonstrates from a public policy perspective that sexual violence in 2002 remains well under the radar screen in the English Canadian newspapers under study and as a result will continue to be ignored by policy makers as a public policy issue, despite the fact that the goals of the reforms initiated in the 1980s remain unrealized.

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[4] Shanto Iyengar and Adam Simon, "News Coverage of the Gulf Crisis and Public Opinion: A study of agenda setting, priming and framing"(June 1993) 20:3 Communication Research. 365 at 366.
[5] Pippa Norris, "Introduction: Women, Media and Politics" in Pippa Norris, ed. *Women, Media and Politics,*(Oxford: Oxford University Press, 1997) at 2.
[6] Stuart N. Soroka, "Issue Attributes and Agenda-Setting by Media, the Public, and Policy Makers in Canada" 14:3 International Journal of Public Opinion Research. 281 at 281.

Moreover, this dissertation responds to a critique of critical discourse and content analysis identified by Teun van Dijk, who lamented the lack of rigorous research linking societal systems of inequality with analysis of text.[8] This analysis clearly demonstrates that there is a privileging of voices in the telling of rape that systemically ignores women. Moreover, it shows that the state, through the actions of police agencies throughout Canada, participate in the silencing of women's perspectives surrounding rape. This suggests that the state and the media work in a symbiotic way, either consciously (through the use of the media by the state) or unconsciously (by the interplay of agenda setting in the public policy process) in constructing sexual violence against women as unremarkable. As demonstrated, the state, through the police, judiciary and court actors, propagate or condone sexual assault myths and stereotypes in the telling of the story of sexual assault. Secondly, as a public policy, the issue of sexual violence remains unexplored in full detail allowing the public policy community complacency. Sexual assault is seen as a natural outcome of the relationships between men and women.

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[7] For more on this, please see Itzhak Yanovitzky, "Effects of News Coverage on Policy Attention and Actions: A closer look into the media-policy connection" (August 2002) 29:4 Communication Research at 422-451.

[8] Teun van Dijk, "Editorial: Discourse analysis as social analysis" in Discourse and Society (Vol. 5 No. 2, 1994) at 164.

Most disturbingly, research has indicated that rape myths are a "prominent cause for sexual violence in men."[9] Men's acceptance of rape myths can be used to justify sexual violence against women.[10] The continued reliance on rape myths in English Canadian newspapers in 2002 supports rather than contradicts the use of these myths. In other words, there is no strong counterbalance published that suggests that these myths are incorrect or wrong. In a study published in the *European Journal of Social Psychology*, researchers determined that there is a link between men's rape myth acceptance and their "proclivity toward sexual aggression."[11] The newspapers then, actively play a role in the endorsement of rape myths and men's justification for sexual aggression.

The Story Is Not Finished -- Recommendations And Areas For Future study

There are several recommendations that come out of this analysis. First, the police departments should reconsider the language they are using when they issue warnings regarding sexual violence. They may also want to recognize that sexual assault cannot be treated in the same manner as other crimes because sexual assault is entrenched in stereotypes and myths that do not have the same salience with other crimes. More studies need to be done to determine what the police release in their media releases and what is picked up by the media. Additionally, while police communications officers may handle the initial release of information, journalists may go to police officers working the case specifically for more information. How they are trained to talk to the media about sexual assault crimes also needs more study.

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[9] Gerd Bohner, Christopher I. Jarvis, Friederike Eyssel, and Frank Siebler, "The causal impact of rape myth acceptance on men's rape proclivity: Comparing sexually coercive and noncoercive men" (2005) 35 European Journal of Social Psychology. 819 at 819.
[10] Ibid.
[11] Ibid at 826.

I see an increased need to once again make sexual assault a public policy issue by lobbying government to once again address the issue of under-reporting rates for this crime and the low conviction rates. This means when a particularly offensive piece appears in the local newspapers, we need to commit to setting the record straight and commenting on the myths and stereotypes. This can be either through letters to the editors or phone calls to the reporters working on the case. In situations when reporters are covering sexual assault trials, volunteers from sexual assault centers could work with the victims and the Crown to make sure her perspective is clearly articulated. As well, Crown Attorneys should be educated on the way the media treat sexual assault crimes and be more proactive in ensuring that there is alternative information available to counteract any myths and stereotypes presented in the trial.

More information needs to be made available about the statistical reality of sexual assault as well. It needs to be made clear that this is not an isolated problem that happens to a tiny minority. Instead, it is a larger issue that can have a significant impact on a woman's ability to live a full and happy and healthy life.

A Final Word

Over the last four years I have been thinking daily about the story of rape. It at times has been a relentlessly personal story as well as an academic exercise, because I am a woman and I have my own stories to tell about rape. In doing this analysis, I have read over 15-hundred news stories written about sexual violence and I have spent countless hours on the telephone and in newsrooms across the country talking to reporters, police officers and communications experts about this crime. I have become imbued with a sense of what this story means to the police, the reporters, and the editors. It is not an easy story to tell. In many ways I was fortunate because the police and the journalists all expressed an interest in this project and its findings and talked freely to me about the institutional paradigms under which they operate. For their time, I am infinitely grateful, because they provided value to this analysis and allowed me to speak with a stronger voice. But the last word must go to the victims of rape, and for that I turn to Jane Doe, whose statements started each chapter of this analysis:

> I have found most rape stories to be either chronicles of fear and horror, victim tales that make me want to run screaming from the page (although I do not), or dry academic, feminist or legal treatises on why rape is bad, written in language I must work to understand. All are valid. But all somehow limit me from reaching a broader understanding of the crime: why men do it; the myriad of ways women experience it; and how rape is used to maintain the status quo socially, politically, legally. No book has ever reflected my experience of the crime.[12]

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[12] Jane Doe, *The Story of Jane Doe: A book about rape* (Toronto: Random House, 2003) at 2.

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Appendix #1

1. Case ID
2. Name of newspaper?
    1. *National Post*
    2. *Globe and Mail*
    3. *Victoria Times Colonist*
    4. *Edmonton Journal*
    5. *Winnipeg Free Press*
    6. *Toronto Star*
    7. *Halifax Chronicle Herald*
3. Date of Story (dd/mm/yy)
4. Gender of first reporter/columnist
    1. Male
    2. Female
    3. Not Known
    4. No Byline
5. Location of story
    1. Front Page
    2. First Section (not front page)
    3. Entertainment Section
    4. Sports Section
    5. City Section
    6. Other (cite)
    7. C-Section
    8. B-Section
    9. D-Section
    10. O-Section
    11. H-Section
6. Type of story
    1. News story

2. Sports story
3. Entertainment story
4. Editorial
5. Column/Commentary
6. Feature/Review/In Focus
8. Other (cite)
9. News In Brief /Capsule/East to West
10. Sports in brief/Capsule/East to West

7. Where did sexual assault take place?
   1. City of newspaper (do not use for *National Post/Globe and Mail)*
   2. Other part of Canada (do not use for *National Post/Globe and Mail)*
   3. United States
   4. Outside Canada/United States
   5. Both Canada and the United States
   6. Province of newspaper (do not use for *National Post/Globe and Mail)*
   7. Canada (use only for the *National Post/Globe and Mail*)
   0. Not known
   99. NA

8. Status of sexual assault
   1. Sexual assault reported to police/Police are investigating
   2. Police have made arrest/Charges have been laid/Warrant issued
   3. Sexual assault case going to trial
   4. Coverage of sexual assault trial/hearing/arraignment
   5. Guilty verdict in sexual assault trial and/or sentencing/guilty plea entered
   6. Appeal of sexual assault trial is announced/Appeal coverage
   7. Appeal decision is announced
   8. Supreme Court of Canada decision – coverage before and after
   9. Other (cite)
   10. Charges dropped/charges won't be laid/charges dismissed
   11. Extradition hearing
   12. Civil suit/class action suit/settlement in civil proceedings

    13. Not guilty finding
    14. Charges have been stayed/reserved decision
    15. Dangerous offender/sexual offender being released back into public/being moved
    16. Parole application by sexual offender
    99. NA
9. Multiple victims?
    1. Yes
    2. No
    0 Not Known
    99. Not applicable
10. At least one of the victims is under the age of 14 at time of sexual assault
    1. Yes
    2. No
    0. Unknown
    99. Not Applicable
11. Race of victim
    1. Aboriginal
    2. Caucasian
    3. Other (cite)
    4. Asian
    5. Moslem
    0. Unknown
    99. Not Applicable
12. Gender of victim
    1. Male
    2. Female
    3. Male and Female
    0. Unknown
    99. Not applicable
13. Multiple Perpetrators

1. Yes
2. No
3. Unknown
99. Not applicable

14. Race of perpetrator(s)
1. Aboriginal
2. Caucasian
3. Other (cite)
4. Asian
5. Moslem
0. Unknown
99. Not applicable

15. Gender of perpetrator(s)
1. Male
2. Female
3. Both male and female
99. NA
0. Not known

16. Rape myths present
1. Yes
2. No

17. If yes, what are they?
1. Rape is sex
2. The assailant is motivated by lust.
3. The assailant is perverted or crazy or "couldn't help himself"
4. The victim provoked rape.
6. The victim was "loose".
7. The sexual attack sullied the victim.
8. The victim cried rape out of revenge.
9. Other (cite)
10. Lying

11. Foreign rapist
12. Innocent men are being accused of rape
13. Victim's reputation is discussed
14. Pedophiles are gay
15. Perpetrator's marital status/reputation is discussed
0. No myth

18. Is this a recent case? (From 1997 onward?)
1 Yes
2 No
0 Don't know
99. Not Applicable

19. Are there sources quoted?
1 Yes
2 No

20. If sources are quoted, who is the first source?
1. Police (either officer or organization)
2. Crown Prosecutor/Lawyer for Victim/District Attorney
3. Defense Lawyer
4. Sexual Assault Centre spokesperson/Status of Women
5. Victim
6. Perpetrator
7. Church
8. School/University spokesman
9. Teachers' Union/College of Teachers
10. Other please cite
11. Victim's spokesgroup/UN human Rights/Lawyers on behalf of plaintiffs/Child advocates
12. Appeal Court Justice
13. Supreme Court Justice
14. Trial Judge
15. Other Judge

    16. Court documents/decisions where no judge is quoted
    17. Government Spokesperson (federal or provincial, including MLAs and MPs)
    18. Association for the Wrongfully Convicted
    19. Newspaper/Magazines
    20. Victim's parent/family/husband
    21. Academic/Author
    22. Witness
    23. Hospital spokesperson
    24. Corrections
    25 Parole Board
    0. No sources quoted

21. First source gender

    1. Male
    2. Female
    3. Not Applicable (Court Documents/Newspapers/Magazines/News Release)
    99. Not known
    0. No first source

22. Second source quoted

    1. Police (either officer or organization)
    2. Crown Prosecutor
    3. Defense Lawyer
    4. Sexual Assault Centre spokesperson/Status of Women
    5. Victim
    6. Perpetrator
    7. Church
    8. School/University spokesman
    9. Teachers' Union/College of Teachers
    10. Other please cite
    11. Victim's spokesgroup/UN human Rights/Lawyers on behalf of plaintiffs/Child advocates

  12. Appeal Court Justice
  13. Supreme Court Justice
  14. Trial Judge
  15. Other Judge
  16. Court documents/decisions where no judge is quoted
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  18. Association for the Wrongfully Convicted
  19. Newspaper/Magazines
  20. Victim's parent/family/husband
  21. Academic/Author
  22. Witness
  23. Hospital spokesperson
  24. Corrections
  25. Parole
  0. No second source quoted

23. Second source gender
  1. Male
  2. Female
  3. Not applicable (court document/newspaper/magazine/news release)
  99. Not known
  0. No second source

24. Story frame
  1. Law and order
  2. Science Frame
  3. Societal Frame (why sexual assault occurs, prevalence)
  4. War Crime Frame
  5. Injustice Frame
  7. Scandal (Church scandal, residential school scandal, Chretien/Blondin Anderson)
  8. Economic frame

    9. Other
    10. Entertainment
    11. Treatment frame

25. Main Topic
    1. Criminal Court coverage (includes stories that talk about charges being laid or ongoing investigations)
    2. Civil suit Coverage
    3. Review of court cases
    4. DNA and use of science in rape cases
    5. Background story regarding specific rape case
    6. International stories of rape (all stories from outside Canada/US)
    7. Feature story on rape
    8. Other please cite
    9. Bishop's committee on sex abuse in church
    10. Dangerous man on the loose
    11. Use of registry to find pedophiles or rapists

26. Was the assault committed by a "stranger".
    1. Yes
    2. No
    0. Not Known
    99. Not Applicable

Instructions for coding sheet

2. Stories will be coded only if 50% of the stories relate to sexual assault.
3. If there are two reporters, determine the gender of the first reporter. If it's a unisex name like Kim, then code not known. If there is no name, code it as no byline.
6. Editorials refers to editorial columns usually unsigned that appear on the editorial page.

   Columns or Commentary refers to columnists such as Christine Blatchford or Barbara Amiel.

   News stories are hard news stories that answer questions like who, what, where, and when.

   Entertainment or sports are marked clearly either as Entertainment or sports stories

   Feature stories are indepth stories – longer than the usual news stories, but not an editorial
7. If sexual assault takes place in Canada, code Canada. If it takes place in the United States, code United States. If it occurred in both places, code both and if it's not know code 0.
8. Status of Sexual assault: Sexual assault reported to police refers to police investigating a sexual assault. No charges have been laid. Charges have been laid is when police have made an arrest. Sexual assault case going to trial refers to "future" stories that talk about a trial that is about to happen (usually the next day). Coverage of the trial refers specifically to coverage of an ongoing trial. The outcome involves both the verdict and the sentencing and finally, appeal talks about when the defense/crown files an appeal. That does not include coverage of the appeal. Appeal coverage would be considered coverage of sexual assault trial.
9. Multiple victims: more than one victim. Must be ongoing. Do not code if the individual is charged with a new crime and had already been convicted of a previous crime. If it's not a story about a specific sexual assault case, code as not applicable.

11. Only code race if it's specified in the story. Please cite the other.

12. Gender of victim, code only if story is in relation to a specific case, otherwise, code 99. For example, if they're talking about the Bishop's decision on the Catholic Church or setting up guidelines for teachers who sexually assault students, then code 99.

13. Multiple perpetrator: Code 99 if story does not talk about a specific case.

14. Age of youngest perpetrator: Again, it must be in years.

14b Age of oldest perpetrator: if there isn't a multiple perpetrator, then only put the age in the youngest perpetrator and code oldest as 99.

15. Race of perpetrator: again, code only if race is described. Code 99 if the story is not about an ongoing case.

16. Self explanatory. If both genders, code 3. Code 99 if the story is not about an ongoing case. Code 0 if not known.

17. Rape myths present: Are there myths or stereotypes that you see operating in the story? Are there assumptions being made about the victim? Is the victim being portrayed in negative way?

18. If yes, what are they? (code more than 1 if applicable)

Rape is sex – this suggests that the sexual assault is somehow sexual. It will be described as sexual intercourse, groping, partying, etc.

Assailant is motivated by lust – does the story suggest that the assailant couldn't help himself/herself or couldn't stop himself/herself?

Assailant is perverted or crazy – does the story suggest that the individual is deranged, crazy, perverted, in need of psychiatric help?

Victim provoked rape/was responsible – these stories talk about the victim's actions prior to the sexual assault. What s/he was wearing, what s/he was doing, was s/he drinking? Anything that suggests s/he should have *known* better.

The victim was loose – is his or her sexual past discussed? Is s/he a prostitute? Did s/he have sex with the perpetrator before?

The sexual assault sullied the victim/made the victim mentally unstable – self explanatory.

Victim cried rape out of revenge – used in cases where the perpetrator is high profile or married to someone high profile. Code for this if this is suggested.

Other – cite

No myth code as 0

Lying – is there a suggestion that the victim is lying, that s/he is not credible?

Foreign rapist – code all stories that occurred outside of Canada and the United States as using the foreign rapist myth. Code all stories that occurred in Canada and the United States as using this myth if the perpetrator's status in the country is mentioned (ie) perpetrator is from Barbados.

Innocent men are being accused of rape – code for this when the not guilty verdict comes back, when cases are under review, when DNA exonerates men.

Victim's reputation is bad – use this when the victim's criminal record or his or her personal habits are talked about.

Pedophiles are gay – use this code when the story says specifically that pedophiles are gay.

Perpetrator's marital history or reputation is discussed – use this if they say the perpetrator was a married man with four children or if he's described as having an illustrious career, etc.

19. Is this a recent case: self-explanatory

20. What year – self-explanatory

21 Are there sources quoted? Anytime a quotation mark is used, that is a source. If the story doesn't use quotation marks but attributes information, that is a source. For example: Police say; She claims; He suggests; They say.

22/24 The list is self-explanatory. Please cite other sources not on the list.

23/25 Gender of source: code as not applicable if it's a newspaper, magazine, court documents, etc.

26. Story frame—

Law and order – interested in the machinations of court, of justice.

Science Frame – talks about using DNA, psychiatry in looking at sexual assault

Societal Frame – an analysis of why sexual assault occurs, who is responsible

War Crime Frame—is in use mostly in stories from outside of Canada and the United States

Injustice Frame – this frame is used when you're left with the feeling that someone has been treated unfairly. For instance, when a man/woman has been unjustly sent to jail for sexual assault or when a man/woman is freed on a technicality.

Scandal – these are stories that deal with scandals in the Church, schools, residential schools, the Maple Leaf Gardens, the priesthood, Blondin Anderson calling the victim in Chrétien's son's case, etc.

Economic frame – how much are these rape settlements costing society?

Other (Cite please)

Entertainment – this is not only about entertainment figures, but also about stories that talk about rape like it's entertainment. For example – stories that talk about the "kissing bandit" or that talk about an 85 year old woman who stopped a rapist with a cane.

Treatment frame – talks about how priests, others are being treated for sexual addictions.

27. Main topic – what does the majority of the story talk about?

Criminal court coverage -- stories that talk about charges being laid or ongoing investigations

Civil suit coverage – when the cases are in civil court or there is a discussion about potentially taking the case to civil court

Review of court cases – when someone has been wrongfully imprisoned and they're investigating what went wrong

DNA and science – the idea that science or DNA is used to solve cases

Background story on a specific rape case – an indepth focus on a specific case – this is more than just a news story – it's a backgrounder

International stories on rape – all stories that occurred outside Canada or US.

Feature story on rape – a backgrounder on rape that is not about a specific case.

Other – cite

Bishop's committee on sex abuse in church – all discussions regarding the Bishop Committee recommendations

Dangerous man on the loose focuses on the fact that the sexual offender has not been rehabilitated. This should be used with an injustice frame.

Use of registry to find pedophiles or rapists. This is the dominant theme of the story and focuses on a law and order frame of getting rapists caught.

26. Stranger attack?

This is in the context of the man jumping out of the bushes and raping women. There is no sense that these women had any type of interaction with the individual before the rape occurred. If unsure, mark as not known. In cases where it's obvious, ie)babysitter, priest, father, mark as yes.